APPENDIX A

Memorandum Disposition of the United States
Court of Appeals for the Ninth Circuit
No. 25-3551 (May 26, 2026)

NOT FOR PUBLICATION

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LAWYERS FOR FAIR RECIPROCAL ADMISSION,
Plaintiff – Appellant,

v.

ANN A. SCOTT TIMMER, Chief Justice of the Arizona Supreme Court; JOHN R. LOPEZ IV, Justice, Arizona Supreme Court; ROBERT BRUTINEL, Justice, Arizona Supreme Court; CLINT BOLICK; JAMES P. BEENE, Justice, Arizona Supreme Court; WILLIAM G. MONTGOMERY, Justice, Arizona Supreme Court; KATHERYN KING, Justice, Arizona Supreme Court, *Defendants – Appellees*.

No. 25-3551
D.C. No. 2:24-cv-02175-GPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Gonzalo P. Curiel, Senior District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted May 21, 2026[**]
Phoenix, Arizona

Before: GOULD, BERZON, and HURWITZ, Circuit Judges.

Lawyers for Fair Reciprocal Admission ("LFRA") appeals the district court's dismissal of its complaint against members of the Arizona Supreme Court and the district court's pre-filing order applicable to LFRA's attorney, Joseph Giannini. We affirm.

1. LFRA's complaint challenged Arizona Supreme Court Rule 34(e), which permits attorneys licensed in other states to be admitted in Arizona without taking the Arizona Bar examination if their state of licensure extends similar privileges to lawyers admitted in Arizona. LFRA argues that Rule 34 violates the Fourteenth Amendment's Equal Protection Clause, the Article IV Privileges and Immunities Clause, the First Amendment, and the Full Faith and Credit Act, 28 U.S.C. § 1738.[1] These arguments are squarely fore-

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

[1] LFRA's briefing does not challenge the dismissal of its procedural due process claims, its First Amendment right to petition or association claims, or its claims under the Fourteenth Amendment's Privileges or Immunities Clause. Nor does it meaningfully develop its argument that the Rule is a prior restraint. These claims are therefore forfeited. *Jones v. Allison*, 9 F.4th 1136, 1139 n.6 (9th Cir. 2021); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) ("We will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented

closed by our prior opinions involving challenges to bar admission rules brought by the same attorney now representing LFRA. *See Nat'l Ass'n for the Advancement of Multijurisdictional Prac. ("NAAMJP") v. Berch*, 773 F.3d 1037 (9th Cir. 2014), *LFRA v. United States*, 141 F.4th 1056, 1067-72 (9th Cir. 2025) ("*LFRA I*"), *cert. denied*, 146 S. Ct. 890 (2025).

2. A three-judge panel is bound by Circuit precedent unless "an intervening Supreme Court decision undermines an existing precedent of the Ninth Circuit, and both cases are closely on point." *United States v. Gay*, 967 F.2d 322, 327 (9th Cir. 1992) (cleaned up). Recognizing as much, LFRA argues that several recent Supreme Court cases—*National Institute of Family and Life Advocates v. Becerra*, 585 U.S. 755 (2018), *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023), *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021), and *Chiles v. Salazar*, 146 S. Ct. 1010 (2026)—abrogate the holdings in *Berch* and *LFRA I*. But none of these cases deals with reciprocal admission rules, and Rule 34 plainly does not—as was the case with the schemes challenged in those cases—discriminate on the basis of race, the content of speech, or a particular viewpoint. Nor does Rule 34 retaliate against LFRA's members "after the fact for having engaged in protected speech." *Hou. Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 474

for review.").

(2022).[2]

3. The court did not abuse its discretion in imposing a pre-filing order on attorney Giannini. *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1062 (9th Cir. 2007) (stating standard of review). District courts may issue pre-filing orders against attorneys in response to frivolous filings. *Id.* at 1063. A frivolous filing is "baseless and made without a reasonable and competent inquiry." *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990) (en banc).

LFRA's complaint fits this description. Its arguments were squarely foreclosed by *Berch* and *LFRA I*, and no reasonable reading of subsequent Supreme Court decisions undermines those precedents. Moreover, Giannini has repeatedly and unsuccessfully challenged lawyer admission schemes on similar theories for decades. *See, e.g.*, *Giannini v. Real*, 711 F. Supp. 992, 995 (C.D. Cal. 1989); *Russell v. Hug*, 275 F.3d 812, 815, 819-23 (9th Cir. 2002); *NAAMJP v. Castille*, 799 F.3d 216, 218 (3d Cir. 2015); *NAAMJP v. Roberts*, 180 F. Supp. 3d 46, 52 (D.D.C. 2015); *LFRA v. United States*, No. 22-2399, 2023 WL 145530, at *1 (D.N.J. Jan. 10, 2023), *appeal filed*, No. 23-1154 (3d Cir.

[2] LFRA also argues that the district court erred in denying leave to amend so that it could add member declarations to its pleadings. But these declarations only attest to the members' qualifications and how they are allegedly disadvantaged by Rule 34. The district court correctly concluded that amendment to add these declarations would be futile because they did not "cure the deficiencies in Plaintiff's legal theories."

Jan. 26, 2023). The district court thus reasonably concluded that no lawyer, "after conducting an objectively reasonable inquiry into the facts and law, would have found the complaint to be well-founded." *Holgate v. Baldwin*, 425 F.3d 671, 677 (9th Cir. 2005).

"[T]he sanction imposed must be tailored to curtail the attorney's particular misconduct." *Molski*, 500 F.3d at 1063. The district court did not abuse its discretion in concluding that a pre-filing order would curtail Giannini's behavior. *See Molski*, 500 F.3d at 1062 (affirming imposition of a pre-filing order on a law firm for vexatious litigation); *see also Paciulan v. George*, 38 F. Supp. 2d 1128, 1145-47 (N.D. Cal. 1999) (imposing pre-filing order against Giannini), *aff'd on other grounds*, 229 F.3d 1226 (9th Cir. 2000); *NAAMJP v. Gonzales*, 211 F. App'x 91, 94, 96 (3d Cir. 2006) (affirming pre-filing order against Giannini). The pre-filing order here only applies to complaints "regarding admission to and the regulation of practice of law" in Arizona and does not prevent Giannini from pursuing nonfrivolous claims after an initial screening review by a district judge. *See Molski*, 500 F.3d at 1061.[3]

AFFIRMED.[4]

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[3] LFRA argues in passing that the pre-filing order violates the *Noerr-Pennington* doctrine. LFRA forfeited this argument by failing to raise it to the district court. *Int'l Union of Bricklayers v. Martin Jaska, Inc.*, 752 F.2d 1401, 1404 (9th Cir. 1985). In any event, the doctrine only protects parties who petition the government for redress from statutory liability. *Sosa v. DIRECTV, Inc.*, 437 F.3d 923, 929 (9th Cir. 2006).

[4] LFRA's motion for judicial notice, **Dkt. 54**, is DENIED.

APPENDIX B

Orders of the United States District Court
for the District of Arizona

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

LAWYERS FOR FAIR RECIPROCAL ADMISSION,
Plaintiff,

v.

ANN A. SCOTT TIMMER, Chief Justice of the Arizona Supreme Court, and Justices JOHN R. LOPEZ IV, ROBERT M. BRUTINEL, CLINT BOLICK, JAMES P. BEENE, WILLIAM G. MONTGOMERY, and KATHRYN H. KING,
Defendants.

Case No.: 24-cv-02175-PHX-GPC

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS
[ECF No. 13]

Plaintiff brings a constitutional challenge to the Arizona Bar's reciprocal admission rule, which admits experienced lawyers from states with which Arizona shares reciprocity to the Arizona Bar without requiring them to take another bar examination. Before the Court is Defendants' motion to dismiss Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 13. Plaintiff Lawyer for Fair Reciprocal Admission ("LFRA") filed an opposition and Defendants replied. ECF Nos. 30, 31. The Court finds that the matter is appropriate for decision without oral argument pursuant to Local Civ. R. 7.2(f). For the reasons below, the Court GRANTS Defendants' motion to dismiss.

BACKGROUND

On August 26, 2024, Plaintiff, LFRA, filed the instant action against the Justices of the Arizona Supreme Court and the District Judges of the United States District Court for the District of Arizona ("Defendants").[1] ECF No. 1 ("Compl.").

Plaintiff, LFRA, is a California corporation engaged in advocacy on behalf of lawyers. Compl. ¶ 2-3. Plaintiff asserts that their members "have been deprived of their citizenship rights" by the challenged Arizona state and federal attorney licensing paradigms. *Id.* ¶ 3. Plaintiff states that their affected members include "lawyers of color, women, patent lawyers, military veterans and military spouses, registered in-house counsel, indigent pro bono service lawyers, federal practice specialists, and members of the bar in good standing." *Id.* Plaintiff alleges that many of its "members and associates do not want to take a second, third, and fourth entry-level competence [examination] as already licensed lawyers in good standing[.]" *Id.*

The complaint challenges the validity of Arizona's reciprocal rules of admission to the practice of law under the Constitution and federal law. *See generally* Compl. Arizona Supreme Court Rule 34 states that an attorney may be admitted to the practice of law in the Arizona by: (1) admission by Arizona uniform bar

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[1] On October 25, 2024, Plaintiff dismissed the District Judges from the action without prejudice. ECF No. 19.

examination; (2) admission on motion; or (3) admission by transfer of uniform bar examination score from another jurisdiction. Arizona R. Sup. Ct. 34(a). An applicant may apply for admission to the State of Arizona Bar on motion without taking the Arizona bar examination if they have been admitted to practice law in another jurisdiction that accepts the uniform bar examination ("UBE") and practiced law for three of the last five years in that state.[2] Ariz. R. Sup. Ct. 34(f).

Arizona Supreme Court Rules 38 and 39 provides a list of limited exceptions for the state bar admission rules. Limited exceptions to the admission rules apply to in-house counsel, full time law professors, and approved legal service organizations and pro bono counsel, and military spouses, among others. Ariz. R. Sup. Ct. 38(a)(c)(d) and 39(d). These exceptions involve limited or temporary admissions to practice law in Arizona without requiring attorneys to pass the UBE. *Id.* In addition to these exceptions, an attorney who is not a member of the State Bar of Arizona but is currently a member in good standing of the bar of another state and eligible to practice before the highest court in any state may appear as counsel *pro hac vice* in any case before any state or local court in the state of Arizona. Arizona R. Sup. Ct. 39(a).

Plaintiff alleges that this attorney licensing scheme violates the constitutional rights of attorneys because it is based on "class" status and not on "individual" merit. *Id.* ¶¶ 10, 12-13 (citing *Students for Fair*

[2] The Court will refer to this scheme as Arizona's "reciprocal admission rule" throughout this Order. In simple terms, Arizona shares reciprocity with other states that offer the UBE.

Admissions, Inc. v. President and Fellows of Harvard Coll., 600 U.S. 181 (2023)). Plaintiff alleges that Arizona Supreme Court Rule 34(f) waives the Arizona entry-level bar exam for "already licensed attorneys who have practiced law for three of the last five years from more than forty states." *Id.* ¶ 13(ii). Plaintiff further alleges that licensed attorneys in the nine non-UBE states are not granted the same waiver of admission requirements because their states do not share reciprocity with Arizona. *Id.* ¶ 13.

Plaintiff brings four claims in its Complaint: (1) violation of the Equal Protection and Privileges and/or Immunities Clauses; (2) violation of 28 U.S.C. § 1738; (3) violation of the First Amendment; and (4) violation of Fifth and Fourteenth Amendment Due Process rights. *See generally* Compl.[3]

On September 27, 2024, Defendants filed a motion to dismiss for failure to state a claim, ECF No. 13, which has been fully briefed. ECF No. 30.

JUDICIAL NOTICE AND INCORPORATION BY REFERENCE

Plaintiff attached the following documents to its opposition to the motion to dismiss: (1) several of Plaintiff's member's declarations (ECF Nos. 30-1–30-5; ECF No. 33 at 4-12) and (2) the declarants' Certificates of Good Standing in their respective states of bar admission (ECF Nos. 31-6; ECF No. 33 at 3).

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[3] Plaintiff filed an amended complaint on November 28, 2024, with additional claims. ECF No. 23. However, the Court denied Plaintiff's request for leave to amend its complaint on January 31, 2025, pending this motion to dismiss. ECF No. 29.

See generally ECF No. 30. Generally, when ruling on a Rule 12(b)(6) motion, a court may only consider the complaint, its attachments, documents incorporated by reference in the complaint, and documents subject to judicial notice. *United States v. Ritchie*, 342 F.3d 903, 907-08 (9th Cir. 2003). Courts may take judicial notice of facts that are "not subject to reasonable dispute" when they (1) are "generally known within the trial court's territorial jurisdiction," or (2) "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). While Plaintiff does not explicitly request that the court take judicial notice of these documents attached to their opposition, the Court may still take judicial notice of documents *sua sponte*. *See* Fed. R. Evid. 201(c)(1); *see also* Notes of Advisory Committee on Proposed Rules Fed. R. Evid. 201(c)(1) ("Under subdivision (c) the judge has a discretionary authority to take judicial notice, regardless of whether he is so requested by a party."). The Court will therefore decide whether to consider Plaintiff's exhibits in deciding the motion to dismiss.

I. Declarations

The Court will first consider whether Plaintiff's proffered declarations are incorporation by reference in the Complaint. ECF Nos. 30-1–30-5; ECF No. 33 at 4-12. Defendants argue that the Court should not consider the declarations. ECF No. 31 at 2. In deciding a motion to dismiss, the court can consider only the pleadings, documents that are incorporated by reference, and documents that are properly the subject of judicial notice. *Ritchie*, 342 F.3d at 907-08. "If the plaintiff refers extensively to the document or the document forms the basis of the plaintiff's claim," they are incorporated by reference to the complaint. *Id.* at 907. Courts in the Ninth Circuit regularly decline to consider declarations and exhibits submitted in opposition to a motion to dismiss if they constitute evidence not incorporated by reference in the complaint. *See United States v. Hawthorne Machinery Co.*, 2024 WL 4294878, at *3 n.1 (S.D. Cal. 2024); *see also City of Royal Oak Ret. Sys. v. Juniper Networks, Inc.*, 880 F. Supp. 2d 1045, 1060 (N.D. Cal. 2012).

The declarations in Exhibits 30-1–30-5 discuss LFRA members' experiences and qualifications. ECF No. 30-1–30-5. Plaintiff does not allege such facts in its complaint. *See generally* Compl. The possibility that the declarations might be relevant in assessing the ultimate validity of LFRA's claims does not mean that the court can consider it in deciding a motion to dismiss. *Gerritsen v. Warner Bros. Ent.*, 112 F. Supp. 1011, 1022 (C.D. Cal. 2015). Because the LFRA members' experiences and qualifications were not mentioned in the complaint, they cannot be found to be incorporated by reference. *See City of Royal Oak Retirement*, 880 F. Supp. 2d at 1060.

Accordingly, the Court declines to consider the declarations in deciding the motion to dismiss.

II. Certificates of Good Standing

The Court also considers incorporation by reference of the Certificates of Good Standing. *See* ECF No. 30-6; ECF No. 33 at 3.

Plaintiff references the good standing of their members in the Complaint. Compl. ¶¶ 3, 21. Plaintiff also references throughout the complaint that it intends on submitting Certificates of Good Standing. Compl. ¶¶ 51, 56. When documents have been referenced extensively throughout the complaint, they are treated as part of the document itself. *Khoja v. Orexigen Therapeutics*, Inc., 899 F.3d 988, 1002 (9th Cir. 2018). Plaintiff sufficiently referenced the good standing of their members in the Complaint, and therefore the Certificates of Good Standing are incorporated by reference. The Court also notes that the good standing of the members of LFRA is publicly available on state bar websites. *See White v. Martel*, 601 F.3d 882, 885 (9th Cir. 2010) (taking judicial notice of membership information reported on the California State Bar website); *see also Singh v. Gonzales*, 231 F. App'x 648, 650 n.1 (9th Cir. 2007) (taking judicial notice of an attorney's disbarment pursuant to Fed. R. Evid. 201).

Therefore, the Court will consider the Certificates of Good Standing in deciding the motion to dismiss.

LEGAL STANDARDS

Federal Rule of Civil Procedure ("Rule") 12(b)(6) permits dismissal for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). Rule 12(b)(6) requires the Court to dismiss claims that fail to establish a cognizable legal theory or do not allege sufficient facts to support a cognizable legal theory. *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008) (citation omitted). And under Rule 8(a)(2), a complaint must contain "a short and plain statement of the claim which entitles the pleader to relief." Fed. R. Civ. P. 8(a)(2).

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, 'to state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* "In sum, for a complaint to survive a motion to dismiss, the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief." *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (quotations omitted); *Doe v. United States*, 419 F3d 1058, 1062 (9th Cir. 2005).

To survive a Rule 12(b)(6) motion to dismiss, a complaint does not need detailed factual allegations but must provide allegations that raise a right to relief above the speculative level. *Twombly*, 550 U.S. at 555. While the plausibility standard is not a probability test, it does require more than a mere possibility the defendant acted unlawfully. *Id.* at 556. "When evaluating a Rule 12(b)(6) motion, the Court must accept all material allegations in the complaint as true and construe them in the light most favorable to the moving party." *Chubb Custom Ins. Co. v. Space Sys./Loral, Inc.*, 710 F.3d 946, 956 (9th Cir. 2013).

DISCUSSION[4] [5]

[4] Defendants assert that Plaintiff abandoned various claims because it failed to respond to a number of arguments in Defendants' motion to dismiss. ECF No. 31 at 2; *see generally* ECF Nos. 13 & 30. A plaintiff who makes a claim for relief in their complaint but fails to raise the issue in response to a defendant's motion to dismiss abandons their claim. *Manning v. United States DOD*, 791 F. App'x. 675, 676 (9th Cir. 2020) (citing *Walsh v. Nev. Dep't. of Human Res.*, 471 F.3d 1033, 1037 (9th Cir. 2006)). However, the Court finds that Plaintiff provided sufficient argument in their opposition to the motion to dismiss to maintain all claims for further review. *See, e.g.*, ECF No. 30 at 21-22.

[5] On March 18, 2025, one day after the Court vacated the hearing on the motion to dismiss, Plaintiff filed a motion for leave to file supplemental authorities and a request for judicial notice. ECF No. 39. Defendant opposes both. ECF No. 40. The supplemental authority Plaintiff brings to the Court's attention is *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist.*, 82 F.4th 664 (9th Cir. 2023) (en banc). ECF No. 39 at 3-6. This case was decided in 2023, long before the briefing on the instant motion to dismiss began. And the time to brief the issues in this motion to dismiss has now passed. Because Plaintiff does not explain why it could not have brought the case to the Court's attention in its original opposition, the Court DENIES the motion for leave to file supplemental authorities. *See Taylor v. Borders*, 2021 WL 9721279, at *1 (C.D. Cal. Nov. 4, 2021) (denying motion for supplemental where plaintiff failed to include citations to a certain case in previously filed opposition brief and failed to explain why they were unable to include the citations in the original opposition brief); *see also id.* (noting that while the court has the inherent authority to permit supplemental briefs upon a showing of good cause, no such showing was made). Plaintiff also requests that the Court take judicial notice of an op-ed regarding a different case Plaintiff has brought against the United States concerning admission to federal district courts. *See* ECF No. 39 at 1-3; ECF No. 39-1. "Courts may take judicial notice of publications in-

I. Dismissal Under Rule 12(b)(5)

Defendants initially argued that dismissal was required based on insufficient service of process under Rule 12(b)(5). ECF No. 13 at 3-4. However, Defendants subsequently filed a notice of waiver of defects in service of process, in which they stated their intent to waive this argument. ECF No. 18. Because Defendants have explicitly waived their Rule 12(b)(5) argument, the Court DENIES their motion to dismiss pursuant to Rule 12(b)(5). *See Alamzad v. Lufthansa Consulting GMBH*, 2005 WL 1869400, at *1 n.1 (N.D. Cal. Aug. 4, 2005) ("a waiver of service normally waives any challenge to the timeliness or sufficiency of service); *see also United States v. 79.36 Acres of Land*, 951 F.2d 364, at *2 (9th Cir. 1991) (finding that defendant waived any claim of improper service

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troduced to 'indicate what was in the public realm at the time, not whether the contents of those articles were in fact true.'" *Van Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (citing *Premier Growth Fund v. Alliance Cap. Mgmt.*, 435 F.3d 396, 401 n.15 (3d Cir. 2006); *Heliotrope Gen. Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 n. 118 (9th Cir. 1999)). But Plaintiff's request discusses the substance of the article heavily, indicating that it would like to introduce the article not just to acknowledge its existence, but to bring its contents into consideration. This is improper, especially considering the lack of relevance the existence of the article holds here. *See Gerritsen*, 112 F. Supp. 3d at 1029-30 ("Gerritsen clearly seeks to have the court take judicial notice of the *truth* of the facts states in the various press releases and news articles. This the court cannot do. Because it is irrelevant … that the information in the press releases and news articles was publicly available, the court declines to take judicial notice…"). The Court therefore DENIES Plaintiff's request for judicial notice.

because it failed to object to the sufficiency of process) (unpublished disposition); *Campbell v. Fernando-Sholes*, 2006 WL 2917353, at *3 (D. Ariz. Oct. 10, 2006) ("Oasis waived any objection to sufficiency of service of process").

II. Count One: Equal Protection and Privileges and/or Immunities Clauses

Plaintiff's Count One alleges that Arizona's reciprocal admission rule violates the Fourteenth Amendment's Equal Protection and Privileges or Immunities Clauses. Compl. ¶¶ 38-45. Plaintiff's Count One further alleges that the rule violates the Article IV, § 2 Privileges and Immunities Clause. *Id.* The Court will consider each of these challenges separately.

a. Equal Protection Clause

Defendants argue that the complaint fails to state a claim that Arizona's reciprocal admission rule violates the Fourteenth Amendment's Equal Protection Clause. ECF No. 13 at 4-5. "The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of its laws,' which is essentially a direction that all persons similarly situated should be treated alike." *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (quoting *Plyler v. Doe*, 457 U.S. 202, 216 (1982)). When a law or rule makes a classification on suspect grounds, race, ancestry, or alienage, or impinges upon a fundamental right, it must satisfy a heightened level of scrutiny. *Kahawaiolaa v. Norton*, 386 F.3d 1271, 1277 (9th Cir. 2004). If a law or rule is not subject to heightened scrutiny, courts otherwise apply the lowest level of scrutiny: the so-called "rational basis" review. *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313 (1993).

i. Level of Scrutiny

The Court must first determine what level of scrutiny to apply.

Defendants contends that the Ninth Circuit's decision in *NAAMP v. Berch*, 773 F.3d 1037, 1045 (9th Cir. 2014), is directly applicable and defeats Plaintiff's claim. The Court agrees. In *Berch*, the court considered plaintiff's[6] argument that the Arizona Bar's reciprocal admission rule violates, *inter alia*, the Equal Protection Clause. *Id.* The court first held that, because the rule "does not disadvantage a suspect class or infringe on a fundamental right," it is subject to rational basis review. *Id.* The court reasoned that the rule serves two legitimate state interests: regulating the state bar and ensuring Arizona attorneys are treated equally in other states. *Id.* And the rule "serves these purposes without being unduly restrictive," as there are alternative paths to bar membership, namely passing the UBE. *Id.* Therefore, the court found that the reciprocal admission rule did not violate the Equal Protection Clause. *Id.*

The identical reciprocal admission rule here is also subject to rational basis review. It does not make classifications based upon race, ancestry, alienage,

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[6] The plaintiff in *Berch* was represented by Joseph Giannini, who represents LFRA here. *Berch*, 773 F.3d at 1042. In fact, Mr. Giannini has brought these types of challenges to bar admission requirements across the country for several decades. *See id.* at 1043 (collecting cases).

or any other suspect class. Nor does it burden any fundamental rights. This Court joins a long list of courts in subjecting these types of state bar and court admission rules to rational basis review. *See id.*; *NAAMP v. Castille*, 799 F.3d 216, 219-20 (3d Cir. 2015) (finding Pennsylvania's reciprocity rule subject to rational basis review because it "does not classify attorneys based on residency, but rather, their state of bar admission, and it does not erect a barrier to migration") (quoting *Schumacher v. Nix*, 965 F.2d 1262, 1268 (3d Cir. 1992) (collecting cases)); *NAAMP v. Lynch*, 826 F.3d 191, 196-97 (4th Cir. 2016) (finding district court's reciprocity rule subject to rational basis review because it does not infringe upon a fundamental right or make distinctions based on suspect classes); *see also Giannini v. Real*, 911 F.2d 354, 358 (9th Cir. 1990) ("[o]verwhelming legal authority supports this view that review of state procedures for bar admissions and testing is guided by the rational basis standard").

Plaintiff relies on language from the Supreme Court's recent decision *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023), presumably to argue that Arizona's reciprocal admission rule should be subject to strict scrutiny. *See* ECF No. 30 at 10-11. There, the Court considered a challenge to Harvard College and the University of North Carolina's admissions systems, which both took race into account with the goal of bringing the benefits of diversity to their campuses and the future workforce. *Students for Fair Admissions*, 600 U.S. at 191, 214-15. The Court found that the admissions systems failed to overcome strict scrutiny because they "lack sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points. *Id.* at 230.

In concluding, the Court stated that, instead, a "student must be treated based on his or her experiences as an individual—not on the basis of race." *Id.* at 231. This is the reasoning that Plaintiff ostensibly relies on when it argues that Arizona's reciprocal admission rule is subject to strict scrutiny because it is based on "class status" and not "individual merit and individual experience." *See* ECF No. 30 at 10. To be sure, the Supreme Court's decision in *Students for Fair Admission* endorses the idea that a student should not be granted preference based on race alone, but rather should be judged "by his or her own merit and essential qualities." 600 U.S. at 219-20; *see also id.* at 231. But the "class status" at issue in *Students for Fair Admission* is clearly race and ethnicity. *Id.* at 214. The Court says nothing to indicate that the same treatment would be applicable to a state professional licensing scheme that distinguishes between experienced professionals who are licensed in different states. Plaintiff says nothing to that end, either. Thus, Plaintiff eludes the most important question raised by its own challenge: why experienced lawyers from certain states should constitute a "class" and therefore be subject to strict scrutiny. Because *Students for Fair Admission* has no relevance in this case—which does not deal with race[7]—Plaintiff's attempt to cherry-pick

[7] In fact, Arizona's reciprocal admission rule does not mention

its language to invoke strict scrutiny fails.

The Court will therefore apply rational basis review to Arizona's reciprocal admission rule.

ii. Rational Basis Review

Under rational basis review, the court must consider whether the challenged rule "rationally further[s] a legitimate state interest." *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). "[R]ational-basis review in equal protection analysis 'is not a license for courts to judge the wisdom, fairness, or logic of legislative choices.'" *Heller v. Doe,* 509 U.S. 312, 319 (1993) (quoting *Beach Commc'ns*, 508 U.S. at 313). Rather, classifications subject to rational basis review are "accorded a strong presumption of validity," *Heller*, 509 U.S. at 319-20, and must be upheld "if there is any reasonably conceivable state of facts that could provide a rational basis for the classification," *Beach Commc'ns*, 508 U.S. at 313.

Here, the Ninth Circuit has already determined that Arizona's reciprocal admission rule serves two legitimate state interests. *Berch*, 773 F.3d at 1045. First, the rule "helps Arizona regulate its bar: 'The Supreme Court is extremely deferential to legislative classifications in actions challenging regulation of licensed professions.'" *Id.* (quoting *Lupert v. Cal. State Bar*, 761 F.2d 1325, 1328 (9th Cir. 1985). Second, reciprocity helps the state "ensure that its attorneys are treated equally in other states," as "[s]tates that

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race at all. Ariz. R. Sup. Ct. 34(f). It applies to all out-of-state experienced lawyers regardless of race, ancestry, alienage, gender, or any other suspect class. *Id.* This, it seems, is exactly what *Students for Fair Admission* would call for.

share reciprocity with Arizona will likely continue to admit Arizona-barred attorneys on motion because members of the bar in those states are eligible for reciprocal privileges in Arizona." *Id.* Further, there are several viable alternatives to gaining admission to the Arizona Bar based on reciprocity. Attorneys seeking admission can pass the UBE, *id.*, or apply for *pro hac vice* admission, *see Castille*, 799 F.3d at 224. Therefore, the reciprocal admission rule rationally furthers the state's legitimate interests "without being unduly restrictive." *Berch*, 773 F.3d at 1045.

Plaintiff argues that that Defendants' reliance on *Berch* is not persuasive because the "Supreme Court has overturned the professional speech doctrine[.]" ECF No. 30 at 12-16.[8] In making this argument, Plaintiff refers to the following sentence in the *Berch* equal protection analysis: "The Supreme Court is extremely deferential to legislative classifications in actions challenging regulation of licensed professions." *Berch*, 773 F.3d at 1045 (quoting *Lupert*, 761 F.3d at 1328). While the Supreme Court has in fact invalidated the professional speech doctrine, that is of no moment here. The professional speech doctrine dealt with the level of scrutiny applied to content-based restrictions of professional *speech*. *Nat'l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 767-68 (2018). This First Amendment doctrine would not apply in the

[8] While Plaintiff makes this challenge in the context of its First Amendment claims, the general attack on *Berch* is relevant here. *See* ECF No. 30 at 12-16. And Plaintiff otherwise fails to grapple with Defendants' equal protection arguments. *See generally id.* (absence).

equal protection context. What is more, *Berch* and *Lupert*'s equal protection analysis have nothing to say about the professional speech doctrine. The court in *Berch* does not reference *Lupert* to rely on any discussion about professional speech. Rather, *Lupert*—and the cases cited therein—deals more generally with the deference accorded to legislative *classifications* in the context of licensed professions, such as opticians, *see Williamson v. Lee Optical of Okla. Inc.*, 348 U.S. 483 (1955), and physicians, *Watson v. Maryland*, 219 U.S. 173 (1910). *See Lupert*, 761 F.2d at 1328. This is the general principle the Ninth Circuit relied on in *Berch*, and which the Court relies on now. The validity of the professional speech doctrine therefore does not impact this equal protection analysis.

Because Plaintiff fails to plausibly allege that Arizona's reciprocal admission rule violates the Equal Protection Clause, the Court GRANTS Defendants' motion to dismiss this claim.

b. Article IV, § 2 Privileges and Immunities Clause

Plaintiff also alleges that Arizona's reciprocal admission rule violates the Privileges and Immunities Clause of Article IV, § 2 of the Constitution. Compl. §§ 38-45. "Under the Privileges and Immunities Clause, '[t]he Citizens of each State [are] entitled to all Privileges and Immunities of Citizens in the several States.'" *McBurney v. Young*, 569 U.S. 221, 226 (2013) (alterations in original) (quoting U.S. Const., art. IV., § 2, cl. 1). Courts employ a two-step inquiry in assessing challenges under the Privileges and Immunities Clause. *Marilley v. Bonham*, 844 F.3d 841, 846 (9th Cir. 2016) (en banc) (citing *Sup. Ct. of Va. V. Friedman*, 487 U.S. 59, 64 (1988)). First, the plaintiff "must show that the challenged law treats nonresidents differently from residents and impinges upon a 'fundamental' privilege or immunity protected by the Clause.'" *Id.* If the plaintiff makes this showing, "the burden shifts to the state to show that the challenged law is 'closely related to the advancement of a substantial state interest.'" *Id.*

It is true that "[i]n *Supreme Court of New Hampshire v. Piper,* the Supreme Court held that the practice of law is a fundamental right under the Privileges and

Immunities Clause because it is 'important to the national economy' and because it 'has a noncommercial role and duty.'" *Berch*, 773 F.3d at 1045-46 (quoting *Sup. Ct. of N.H. v. Piper*, 470 U.S. 274, 281 (1985)). Nonetheless, Plaintiff's claim fails at the first step because it cannot show that the rule treats nonresidents differently from residents and impinges upon any protected privilege or immunity.

Defendants contend that Arizona's attorney admission scheme "does not favor Arizona's in-state citizens over out of-state citizens." ECF No. 13 at 6 (quoting *Berch* 773 F.3d at 1046) (internal quotation marks omitted)). Plaintiff responds that the rule "treats citizens from some states differently that [sic] citizens from other states." ECF No. 30 at 22.[9] Plaintiff's ar-

[9] Again relying on its unfounded interpretation of *Students for Fair Admission*, Plaintiff further argues that, because Arizona's bar admission standards are allegedly based on "class

gument misapplies the law. "The purpose of the Privileges and Immunities Clause is to prevent 'a state from discriminating against citizens of other states in favor of its own.'" *Berch*, 773 F.3d at 1046 (quoting *Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 511 (1939)). As the court reasoned in *Berch*, the rule here is neutral because it "imposes the same bar admission requirements on its own citizens as it does on citizens of other states." *Id.* Thus, even if it were true that the rule treats citizens of some states differently from citizens of other states, it would not matter because it does not favor Arizona citizens over citizens of other states. Rather, the rule applies evenhandedly to all attorneys, "irrespective of [their] residency or citizenship status." *Id.*; *see also McBride v. Lawson*, 2024 WL 4826378, at *7 (E.D. Cal. Nov. 19, 2024) ("[T]he complaint does not include allegations to show California's licensing laws treat residents and nonresidents differently. The Ninth Circuit has upheld equivalently neutral attorney licensing rules.").

Plaintiff cites several Supreme Court cases dealing with bar admission rules which imposed impermissible residency requirements on bar applicants in violation of the Privileges and Immunities Clause. *See* ECF No. 30 (citing *Piper*, 470 U.S. at 274; *Sup. Ct. of Va. v. Friedman*, 487 U.S. 59 (1988); *Barnard v. Thorstenn*, 489 U.S. 546, 556 (1989)). Plaintiff seems to argue that this line of cases warrants a similar holding here. *See*

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status" and not "individual merit," they are "obviously unconstitutional." ECF No. 30 at 22. But Plaintiff does not make clear how this argument fits into the Privileges and Immunities analysis. The Court rejects this irrelevant argument.

id. The Ninth Circuit rejected a similar argument in *Berch*:

> The cases cited by Plaintiffs stand only for the proposition that bar admission rules that impose *residency requirements* on bar applicants violate the Privileges and Immunities Clause. *See Piper,* 470 U.S. at 275, 105 S.Ct. 1272 (resident of Vermont challenging New Hampshire's limit of bar admission to New Hampshire residents); *Sup. Ct. of Va. v. Friedman,* 487 U.S. 59, 61, 108 S.Ct. 2260, 101 L.Ed.2d 56 (1988) (resident of Illinois challenging Virginia's limit of bar admission to Virginia residents). The AOM Rule, on the other hand, relies solely on state of bar admission, and applies equally to residents and nonresidents of Arizona.

773 F.3d at 1046. The Court here similarly finds that these cases are inapposite because they deal with residency requirements, and not merely state of bar admission. *See Barnard*, 489 U.S. at 556 (dealing with "[t]he exclusion of nonresidents from the bar").

Because Plaintiff fails to state a claim under the Privileges and Immunities Clause of Article IV, § 2 of the Constitution, the Court GRANTS Defendants' motion to dismiss this claim.

c. Fourteenth Amendment Privileges or Immunities Clauses

Plaintiff also claims that Arizona's reciprocal admission rule violates the Fourteenth Amendment's

Privileges or Immunities Clause. Compl. ¶¶ 38-45. Traditionally, this Clause "protected only those rights accruing by virtue of being a citizen of the United States." *Paciulan v. George*, 229 F.3d 1226, 1229 (9th Cir. 200) (citing the *Slaughter-House Cases*, 83 U.S. 36 (1873); John E. Nowak and Ronald D. Rotunda, *Constitutional Law* § 10.3 (5th ed. 1995)). But the Supreme Court has also applied the clause "in a right-to-travel context to hold that travelers deciding to become permanent residents of a new state enjoy 'the right to be treated like other citizens of that State.'" *Id.* (quoting *Saenz v. Roe*, 526 U.S. 489, 500-07 (1999)).

Defendants argue that the right to practice law is not a fundamental right protected by the Privileges or Immunities Clause. ECF No. 13 at 5. Defendants are correct: "the right to practice law is not one of those rights" accruing from United States citizenship. *Berch*, 773 F.3d 1046. Therefore, Plaintiff has no claim under the Privileges or Immunities Clause arising from the Fourteenth Amendment. *See also Castille*, 799 F.3d at 220 (rejecting similar Privileges or Immunities Clause claim for the same reasons the court rejected appellants' Equal Protection Clause challenge).

To the extent Plaintiff asserts that *Saenz* changes the outcome here, it is mistaken. In *Saenz*, California limited the welfare benefits of those who had lived in the state for less than one year. 526 U.S. at 493. The Court reasoned that "the right to travel embraces the citizen's right to be treated equally in her new State of residence[.]" *Id.* at 505. Here, much to the contrary, Arizona is treating all its citizens—both new and long-term—the same as citizens of any other state in the country. For instance, an Arizona resident who is admitted only to the state bar in California is subject to the same reciprocal admission rules as a New York resident who is admitted only to the state bar in California. *See Berch*, 773 F.3d at 1046-47 ("[i]n this case, [the right to travel] is not infringed because the AOM rule treats non-state residents the same way as it treats residents of Arizona"); *cf. Paciulan*, 229 F.3d at 1229 ("[i]n requiring Appellants to meet the standard requirements for admission to the California bar, the State Bar is ensuring that they will be treated like all other California citizens). Therefore, Plaintiff's argument fails.

Accordingly, the Court GRANTS Defendants' motion to dismiss Plaintiff's claim under the Fourteenth Amendment Privileges or Immunities Clause.

d. Arizona Constitution's "Special Law" Prohibition

In opposing the motion to dismiss, Plaintiff claims that it adequately pleads a claim for a violation of the Arizona Constitution's "special law" rule.[10] ECF No. 30 at 22-24. Plaintiff purportedly pleads this claim as part of its Equal Protection Clause claim. *Id.* at 22. It is true that "[t]he equal protection clauses of the 14th Amendment and the state constitution have for all practical purposes the same effect." *Valley Nat. Bank*

[10] Plaintiff included a claim under this state constitution provision in its proposed First Amended Complaint ("FAC"). *See* ECF No. 25-1 at 64-66. However, the Court denied Plaintiff leave to amend, ECF No. 29, and thus this claim is not explicitly pled in the operative complaint. *See generally* Compl.

of Phoenix v. Glover, 159 P.2d 292, 299 (Ariz. 1945); *see Henry v. City of Somerton*, 2021 WL 2514686, at *12 (D. Ariz. June 17, 2021) ("the equal protection analysis is the same under both constitutions"). Further, Fed. R. Civ. P. 8 does "not countenance dismissal of a complaint for imperfect statement of the legal theory supporting the claim asserted." *Johnson v. City of Shelby, Miss.*, 574 U.S. 10, 11 (2014). And Defendants contend with the claim in their reply brief.[11] *See* ECF No. 31 at 10. Therefore, in the interests of judicial efficiency, the Court will consider the imperfectly pled state constitution claim here.

The Arizona Constitution provides that "[n]o local or special laws shall be enacted … [r]egulating the practice of courts of justice." Ariz. Const. art. IV, Pt. 2 § 19. "Special laws favor one person or group and disfavor others." *Gallardo v. State*, 336 P.3d 717, 721 (Ariz. 2014). Plaintiff argues that the challenged rule is a special law because it only requires experienced lawyers from some states to pass the UBE to gain admission to practice law in Arizona. *Id.* at 23-24.

As a threshold matter, article 4, part 2 of the Arizona Constitution applies to acts of the legislature, not the state judiciary. *See Hoffman v. Reagan*, 429 P.3d 70, 72 (Ariz. 2018) ("[t]he legislature's structure and powers are outlined in article 4, part 2 of the Arizona Constitution"); *Republic Inv. Fund I v. Town of Sur-*

[11] Defendants also incorporate by reference their discussion on special laws in their opposition to Plaintiff's motion for leave to amend its complaint. ECF No. 26 at 10-11. There, Defendants explained why Arizona's prohibition against special laws does not apply here. *Id.*

prise, 800 P.2d 1251, 149 (Ariz. 1990) (in banc) ("the *legislature* must enact laws that apply to all individuals who may benefit from its attempt to remedy a particular evil") (emphasis added). Therefore, Plaintiff cannot plausibly challenge Arizona's reciprocal admission rule, which the state judiciary sets and implements, under article 4, part 2 of the Arizona Constitution.

Even if the special laws provision applies to Defendants, Plaintiff fails to state a claim. To determine whether a law is a "special law," Arizona courts decide whether: (1) the law has "a rational relationship to a legitimate legislative objective," (2) the classification the law makes is legitimate and encompasses all similarly situated people, and (3) the classification is elastic, allowing others to come within or leave the class. *Gallardo v. State*, 336 P.3d 717, 721 (Ariz. 2014). As discussed above, Arizona's reciprocal admission rule clearly has a rational basis. *See* "Discussion" Section II.a, *supra*. The rule applies to all Arizona citizens equally. *See Republic Inv. Fund I*, 800 P.2d at 1258 ("[t]o be general, a law need not operate on every person, place, or thing within the state; however, it must apply uniformly to all cases and to all members within the circumstances provided for by the law"). And the rule is "elastic," as it allows lawyers who gain admission to other state's bars to come within the class, while allowing those who have successfully gained admission to the Arizona bar to exit the class. Thus, even assuming the prohibition against "special laws" applies here, Arizona's reciprocal admission rule does not constitute a "special law."

Accordingly, Plaintiff does not state a claim under the Arizona Constitution's "special law" rule. The Court GRANTS Defendants' motion to dismiss this claim.

III. Count Two: 28 U.S.C. § 1738

Plaintiff's Count Two alleges that Arizona's reciprocal admission rule violates 28 U.S.C. § 1738. Compl. ¶¶ 46-62. "The Full Faith and Credit Clause and its implementing statute[, 28 U.S.C. § 1738,] require that federal courts give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered." *Heidrich v. PennyMac Fin. Servs., Inc.*, 792 F. App'x 540, 541 (9th Cir. 2020) (internal citations and quotation marks omitted).

Defendants first argue that the Full Faith and Credit Clause and its implementing statutes do not give rise to an implied federal cause of action. ECF No. 13 at 6. Indeed, the Supreme Court has squarely stated that "the Full Faith and Credit Clause, in either its constitutional or statutory incarnations, does not give rise to an implied federal cause of action." *Thompson v. Thompson*, 484 U.S. 174, 182 (1988). Courts in this Circuit, along with other circuit courts, are in accord with this interpretation. *See Griffith v. Paran LLP*, 2021 WL 4442881, at *1 (E.D. Cal. Sept. 28, 2021) ("neither the Full Faith and Credit Clause of the United States Constitution nor the corresponding statute, 28 U.S.C. § 1738, provides a private right of action for plaintiff to obtain enforcement of a foreign judgment") (citing *People of State of Cal. ex* *rel. McColgan v. Bruce*, 129 F.2d 421, 424 (9th Cir. 1942)); *Williams v. Clark Cnty. Pub. Adm'r*, 2010 WL 4340654, at *6 (D. Nev. Oct. 26, 2010) ("there is no private right of action for enforcement of the Full Faith and Credit Clause in federal court, either directly or under the implementing statute, 28 U.S.C. § 1738") (citing *Minnesota v. N. Sec. Co.*, 194 U.S. 48, 72 (1904); *Thompson v. Thompson*, 798 F.2d 1547, 1555-56 (9th Cir. 1986)); *Caballero v. Fuerzas Armadas Revolucionarias de Colombia*, 945 F.3d 1270, 1274-75 (10th Cir. 2019) ("the Full Faith and Credit Clause, in either its constitutional or statutory incarnations, does not give rise to an implied federal cause of action") (cleaned up).

Even if Plaintiff could bring a cause of action under the Full Faith and Credit Clause and 28 U.S.C. § 1738, Plaintiff fails to state a claim. The Ninth Circuit addressed a similar claim in *Thaw v. Sessions*, 712 F. App'x 604 (9th Cir. 2017). There, the appellants challenged a District of Arizona local rule which "limits membership in the bar of the district court to attorneys who are active members in good standing of the Arizona bar." *Id.* at 605. The court explained that "the predicate for a full faith and credit claim is an act, record, or judicial proceeding of some state that establishes appellants' entitlement to practice law in the forum state." *Id.* The Court found that no such document had been adduced, and thus affirmed the district court's dismissal of the claim. *Id.* Similarly, here, Plaintiff does not allege that any act, record, or judicial proceedings in another state declares that any of its members are entitled to practice law in Arizona.

See Giannini, 911 F.2d at 360 ("Giannini's claim lacks merit because no act, record or judicial proceeding, in New Jersey or Pennsylvania, states that Giannini is entitled to practice law in California").

Plaintiff cites several Supreme Court cases which discuss the importance of the Full Faith and Credit Clause, including *VL v. EL*, 577 U.S. 404 (2016) (per curiam) (finding that Alabama courts must respect the judgments of a Georgia court), and *Univ. of Tenn. v. Elliott*, 478 U.S. 788 (1986) (finding that federal courts must give a state "agency's factfinding the same preclusive effect to which it would be entitled in the State's courts"). ECF No. 30 at 17-18. Plaintiff then argues that its members have been admitted to practice law by "public acts, judicial records, and [state supreme court] order[s]," and that therefore the Arizona Supreme Court must recognize these "judgments." *Id.* at 18-19. However, as discussed above, Plaintiff does not allege that these acts, records, or judicial proceedings entitle its members to practice law in *Arizona* (as opposed to the members' states of admission). And even if they did, Plaintiff points to no case law—and the Court is not aware of any case law—which suggests that a state's bar admissions are the type of "acts, records, or judicial proceedings" which are covered by the Full Faith and Credit Clause and § 1738. *See id.* (absence).

Accordingly, the Court GRANTS Defendant's motion to dismiss Plaintiff's claim under 28 U.S.C. § 1738.

IV. Count Three: First Amendment

Plaintiff alleges a flurry of First Amendment violations in its Complaint. Compl. ¶¶ 63-81. Plaintiff first alleges that Arizona's reciprocal admission rule constitutes an impermissible prior restraint on its constitutional right to petition. *Id.* ¶¶ 67-72. Plaintiff then alleges that the rule constitutes viewpoint, speaker, and content discrimination. *Id.* ¶¶ 73-78.[12] Plaintiff also alleges that the rule violates its right to association. *Id.* ¶¶ 79-81. The Court will consider these claims in turn.

a. Prior Restraint; Right to Petition

Plaintiff alleges that the reciprocal admission rule is a prior restraint on its member's right to petition the government for the redress of grievances. *Id.* ¶¶ 67-72. Specifically, Plaintiff alleges that the rule repeals petition rights because it assumes that "all licensed lawyers from nine states will file sham petitions for an anti-competitive purpose." *Id.* ¶ 68A. Plaintiff further alleges that "lawyers from nine states are required to reinvent the wheel on an entry level licensing test and lawyers from forty-one states get an exemption." *Id.* ¶ 72. Plaintiff does not specifically defend this claim in its opposition brief. *See* ECF No. 30 at 12-16 (absence).

"[T]he Petition Clause protects the right of individuals to appeal to courts and other forums established by the government for the resolution of legal disputes." *Borough of Duryea, Pa. v. Guarnieri*, 564 U.S. 379, 387 (2011). As Defendants point out, Plaintiff does not allege—nor is it clear to the Court—that the reciprocal admission rule denies "meaningful access to

[12] The Court will consider these together as a free speech challenge.

the courts." *Berch*, 773 F.3d at 1048. In fact, "[a]s long as attorneys are admitted under the [reciprocal admission rule], or pass the UBE, they may still practice in Arizona courts." *Id.* (citing *Paciulan*, 229 F.3d at 1230); *see also Castille*, 229 F.3d at 224 (rejecting Petition Clause challenge in part because attorneys "maintain the right to represent clients in Pennsylvania courts so long as they take the bar exam or apply for *pro hac vice* admission"). Therefore, Plaintiff fails to state a claim for relief under the Petition Clause.

Accordingly, the Court GRANTS Defendants' motion to dismiss the Petition Clause claim.

b. Free Speech

The Court will first address Plaintiff's various claims that Arizona's reciprocal admission rule violates its Free Speech rights under the First Amendment. The First Amendment prevents the government from "abridging the freedom of speech ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I. "We consider bar admission restrictions to be time, place, and manner restrictions on speech." *Berch*, 773 F.3d at 1047 (citing *Mothershed v. Justices of Supreme Court*, 410 F.3d 602, 611 (9th Cir. 2005) ("In order to further its substantial interest in regulating the legal profession, the State of Arizona may institute reasonable time, place, and manner restrictions on Arizonans' First Amendment right to consult with an attorney."). Time, place, and manner restrictions are reasonable if they "are justified without reference to the content of the regulated speech, …

narrowly tailored to serve a significant governmental interest, and … leave open ample alternative channels for communication of the information." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (internal quotation marks omitted).

i. Content Neutrality

Plaintiff first assails Arizona's reciprocal admission rule as discriminating based on speaker, viewpoint, and content. Compl. ¶¶ 73-78; *see* ECF No. 30 at 14-16. Speech restrictions that target specific speakers, viewpoints, or content are presumptively unconstitutional and may be justified only if they survive strict scrutiny. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015); *see id.* at 168-71. "Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed." *Id.* at 163. For instance, laws are content based if they "target speech based on its communicative content," *id.*, or "single[] out particular content for differential treatment," *Berger v. City of Seattle*, 569 F.3d 1029, 1051 (9th Cir. 2009) (en banc).

Plaintiff argues that the rule "favors the viewpoints and the speech of lawyers" from the 39 states Arizona shares reciprocity with, while it "disfavors" the viewpoints and speech of lawyers from the other states. ECF No. 30 at 16. Defendants respond that the rule do not target any speech based on content, viewpoint, or speaker. ECF No. 13 at 8-9. The Court recognizes that the rule subjects attorneys from some states to different bar admission requirements than attorneys from other states. However, this fact alone does not make the rule content or viewpoint based.

Rather, what is important here is that the rule does not restrict speech based on who the attorney is, who they are representing, the subject matter of representation, or any viewpoints the attorney holds. It simply restricts speech based on state of bar admission. This distinction does not make the rule speaker, viewpoint, or otherwise content based. *See Simandle*, 658 F. App'x at 136 n.12 (finding bar admission rule content neutral because it "does not differentiate between attorneys based upon their viewpoints or the content of their speech," but rather "differentiates between them based only upon their state bar of admission"); *see also Lynch*, 826 F.3d at 196 ("The Rule does not compel attorneys to speak or regulate speech based on its content. Neither does the Rule restrict attorneys from speaking."); *Castille*, 799 F.3d at 221-23 (finding Pennsylvania's reciprocal admission rule to be content neutral because "the fact that attorneys of reciprocal states face fewer hurdles to admission than attorneys of nonreciprocal states does not constitute speaker discrimination" and the rule does not "reflect the Government's preference for the substance of what the favored speakers have to say (or aversion to what the disfavored speakers have to say)").

Accordingly, the Court finds that the rule is content neutral, and therefore subject to intermediate scrutiny.

ii. Narrow Tailoring and Alternative Channels of Communication

Because Arizona's reciprocal admission rule is a content neutral time, place, and manner restriction on speech, it must be "narrowly tailored to serve a significant government interest" and "leave open ample alternative channels for communication of the information." *Ward*, 491 U.S. at 791. Defendants contend that the Court should follow *Berch*, where the court found that Arizona's reciprocal admission rule helps "regulat[e] the practice of law," which is a "substantial government interest," and provides the option of passing the bar exam, "which reduces the quantity of speech that the … [r]ule might otherwise restrict." ECF No. 13 at 8 (quoting *Berch*, 773 F.3d at 1047). Plaintiff does not directly respond to this argument. *See* ECF No. 30 at 14-16 (absence).

As Defendants point out, Arizona's reciprocal admission rule helps the Arizona Bar regulate the practice of law within its jurisdiction and establish standards for licensing attorneys. These are substantial government interests. *Berch*, 773 F.3d at 1047; *Mothershed*, 410 F.3d at 611 (recognizing Arizona's "substantial interest in regulating the legal profession"); *see Thaw*, 712 F. App'x at 606 (reaffirming *Berch*'s First Amendment reasoning). And the rule places only "minimal limitations on expressive activities," primarily because of the ample alternative channels of communication available to LFRA's members. *Simandle*, 658 F. App'x at 136; *see Berch*, 773 F.3d at 1047 (finding that the ample available alternatives "reduce[] the quantity of speech that [the reciprocal admission rule] might otherwise restrict"). Among these alternatives are the opportunity to gain admission by taking the uniform bar examination and the ability to obtain *pro hac vice* admission to practice in Arizona courts. Because the rule does not "impose a blanket prohibition" on out-of-state attorneys' admission to the Arizona bar, it is narrowly tailored. *Mothershed*, 410 F.3d at 612; *see Berch*, 773 F.3d at 1047 (finding Arizona's reciprocal admission rule to be narrowly tailored); *see also Simandle*, 658 F. App'x at 136 ("[u]nlicensed attorneys are free to represent themselves *pro se*, pass the New Jersey bar exam, or apply for admission *pro hac vice* on a case-by-case basis").

Accordingly, the challenged reciprocal admission rule is a constitutional time, place, and manner restriction. The Court therefore GRANTS Defendants' motion to dismiss the Free Speech claims.[13]

c. Right to Association

Plaintiff alleges that Arizona's reciprocal admission rule violates the First Amendment's Free Associ-

[13] Throughout its opposition brief, Plaintiff emphasizes that it brings both as applied and facial challenges to the rule. ECF No. 30 at 10, 16, 22. "An as-applied challenge contends that the law is unconstitutional as applied to the litigant's particular speech activity, even though the law may be capable of valid application to others." *Project Veritas v. Schmidt*, 125 F.4th 929, 939-40 (9th Cir. 2025) (internal citations omitted). A facial challenge "requires a plaintiff to show that 'a substantial number of the law's applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep.'" *Id.* (cleaned up) (citing *Moody v. NetChoice, LLC*, 603 U.S. 707, 723 (2024)). Here, Plaintiff has failed to allege that the reciprocal admission rule is unconstitutional as applied in this specific scenario, or in any context at all. Therefore, both of Plaintiff's challenges fail.

ation Clause. Compl. ¶¶ 79-81. This Clause protects the "right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends." *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 647 (2000).

In its motion to dismiss, Defendants argue that *Berch* is on-point here. ECF No. 13 at 9. In *Berch*, the court reasoned as follows:

> Arizona attorneys and non-Arizona attorneys are free to associate with attorneys who are members of the bars of other states, whether these other states enjoy reciprocity with Arizona or not. Moreover, the AOM Rule provides bar applicants alternative means for gaining membership in the Arizona Bar. The presence of these alternative means significantly decreases any obstacles to the freedom to associate that might otherwise result from the AOM Rule.

Berch, 773 F.3d at 1047-48. The same reasoning applies here. The rule does not force out-of-state attorneys to associate with any states that enjoy reciprocity with Arizona, nor does it prevent out-of-state attorneys from associating with the members of any states' bar. *See Castille*, 799 F.3d at 223-24 (rejecting a similar freedom of association argument because the rule did not significantly affect attorneys' ability to advocate any viewpoints, require them to associate with anyone, and left open alternatives to practicing law in the state). Because the reciprocal admission rule does not impinge on out-of-state attorneys' freedom to associate with others, Plaintiff fails to state a claim for relief under the Free Association Clause.

Accordingly, the Court GRANTS Defendants' motion to dismiss the Free Association claim.

V. Count Four: Fifth and Fourteenth Amendment Due Process

Plaintiff's fourth and final claim alleges violations of Fifth and Fourteenth Amendment Procedural Due Process. Compl. ¶¶ 82-92. Plaintiff seems to allege that "[a]n attorney has a constitutionally protected property interest in his or her license to practice law," *id.* ¶ 85 (citing *Cleveland v. United States*, 531 U.S. 12, 25 n.4 (2000); *Gershenfeld v. Justs. of the Sup. Ct. of Pa.*, 641 F. Supp. 1419, 1423 (E.D. Pa. 1986), and that the State Bar is denying attorneys from non-reciprocal states this property right without adequate due process, *id.* ¶ 86. Defendants dispute whether the right to practice law is in fact a protectable property interest. ECF No. 13 at 11-12.

"To allege a due process violation, a claimant must initially demonstrate the existence of a protectable property interest." *Paciulan*, 229 F.3d at 1230 (citing *Leis v. Flynt*, 439 U.S. 438, 441-42 (1979); *Perry v. Sindermann*, 408 U.S. 593, 601-02 (1972)). The court in *Paciulan* held that the appellants had no viable due process claim because the right to practice law *pro hac vice* is not a protectable property interest. *Id.* (citing *Leis*, 439 U.S. at 443 ("There is no right of federal origin that permits such lawyers to appear in state courts without meeting that State's bar admission requirements.")); *Maynard v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 701 F. Supp. 738, 743 (C.D. Cal. 1988) ("Maynard does not cite any rule, statute, or understanding that would support her claim of denial of a property right to practice law in the district court. Furthermore, courts have held that the right to practice law is not a property right protected by the Due Process Clause.") (internal citations omitted). For the same reasons, Plaintiff fails to allege a protectable property interest here.

Plaintiff relies on *Cleveland* and *Gershenfeld* to argue that the right to practice law is a protected property interest. The Court is not persuaded by these cases. In *Cleveland* the Supreme Court only noted that "[i]n some contexts, … individuals have constitutionally protected property interests in state-issued licenses essential to pursuing an occupation or livelihood." *Cleveland*, 531 U.S. at 25 n.4. But the Court's only noted example was *Bell v. Burson*, 402 U.S. 535, 539 (1971), where it found a protectable property interest in a driver's license. There, the Court held that once the state had issued a driver's license, it could not then suspend the license without adequate procedural due process. *Id.* at 540-42. However, *Paciulan* and the instant case are distinct from *Bell*. In *Paciulan*, the California Bar was not revoking existing licenses to practice law in California, but rather was denying *pro hac vice* admission to those who had licenses in other states. *Paciulan*, 229 F.3d at 1227-28. Similarly, here, the Arizona Bar is not revoking licenses to practice law in Arizona, but rather denying admission to those who are licensed in other states.

Further, a license to practice law is much different from a driver's license, primarily because, as noted throughout this Order, there are several viable alternatives to reciprocal admission, whereas there may not be viable alternatives to driving to work. Thus, *Cleveland* and *Bell* do not change the analysis here.

The court's decision in *Gerhenfeld* is also inapposite. While the Court there did hold that the "plaintiff's license to practice law … is a property interest sufficient to invoke due process protections," 641 F. Supp. at 1423, the Court will decline to rely on this out-of-circuit case because it is in direct conflict with the Ninth Circuit's holding in *Paciulan*, which is binding here. *See Hart v. Massanari*, 266 F.3d 1155, 1170 (9th Cir. 2001) ("[b]inding authority must be followed unless and until overruled by a body competent to do so").

Because Plaintiff does not plead a protectable property interest, its due process claim fails. The Court therefore GRANTS Defendants' motion to dismiss Count Four.[14]

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[14] Plaintiff argues at the beginning of its motion that this case "presents several novel legal theories," and that "Rule 12(b)(6) dismissals are especially disfavored in cases where the complaint sets forth a novel legal theory that can best be assessed after factual development." ECF No. 30 at 9-11 (quoting *McGary v. City of Portland*, 386 F.3d 1259, 1270 (9th Cir. 2004). However, *Berch* is on all fours with almost all of Plaintiff's legal theories, and Plaintiff's long history of bringing constitutional challenges to bar admission rules, *see supra* note 6, cuts against any argument that the theories are novel. Plaintiff's only potentially novel argument is the application of *Students for Fair Admission* to the issues, but as the Court discussed above, that seminal case is of no help to Plaintiff here. Therefore, the Court

VI. Leave to Amend

Plaintiff requests leave to amend. ECF No. 30 at 11-12. Defendants argue leave to amend should be denied as futile. ECF No. 31 at 11. Where a motion to dismiss is granted, "leave to amend should be granted 'unless the court determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.'" *DeSoto v. Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992) (quoting *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986)).

Here, the grounds for dismissal are strictly legal: the challenged admission rule is constitutional under all of Plaintiff's legal theories. No additional factual allegations could possibly cure the deficiencies in Plaintiff's legal theories. Therefore, the Court will not grant Plaintiff leave to amend the claims which have been dismissed in this Order. *See Ofir v. Transamerica Premier Life Ins. Co.*, 781 F. App'x 617, 619 (9th Cir. 2019) ("[a]mendment to add further factual allegations would have been futile given the legal deficiencies in Ofir's theories of relief") (citing *Hoang v. Bank of Am., N.A.*, 910 F.3d 1096, 1103 (9th Cir. 2018); *see also Allmaras v. Univ. Mech. & Eng'g Contractors, Inc.*, — F. Supp. 3d —-, 2024 WL 4860804, at *12 (S.D. Cal. Nov. 20, 2024) (denying leave to amend because grounds for dismissal were strictly legal and no additional facts would change this conclusion).

However, Plaintiff previously requested leave to

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does not give much weight to the purported "novelty" of the claims here, especially given that Plaintiff plainly fails to state any claim for relief.

amend its Complaint to add new claims, *see* ECF No. 25-1, which the Court denied pending the outcome of the motion to dismiss, *see* ECF No. 29 at 7 ("[t]he Court will revisit leave to amend upon deciding Defendants' pending motion to dismiss"). To the extent Plaintiff still wishes to bring claims not addressed in this Order, the Court will allow the Plaintiff to file a new motion for leave to amend. In that motion, the Court directs Plaintiff to address why the Court will have jurisdiction over the claims in light of the dismissal of the federal constitutional claims.

CONCLUSION

For the above reasons, the Court GRANTS Defendant's motion to dismiss with limited leave to file a motion for leave to amend, as outlined in Section VI of the "Discussion." If Plaintiff opts to file a motion for leave to amend, it must do so within 21 days of this Order.[15]

[15] The Court acknowledges that, in opposing Plaintiff's late motion for leave to file supplemental authorities and request for judicial notice, Defendants ask the Court to impose sanctions on Plaintiff's counsel and otherwise relieve Defendants' counsel from responding to any further filings while he is on vacation. ECF No. 40 at 2-4. If Defendants' counsel would like to proceed with this request for sanctions, he should file a full motion for sanctions, and the Court will subsequently issue a scheduling order on the matter. The further request to relieve counsel from responding to further filings is rendered moot by this Order.

IT IS SO ORDERED.

Dated: March 19, 2025

Hon. Gonzalo P. Curiel

Hon. Gonzalo P. Curiel
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

LAWYERS FOR FAIR RECIPROCAL ADMISSION,
Plaintiff,

v.

ANN A. SCOTT TIMMER, Chief Justice of the Arizona Supreme Court, and Justices JOHN R. LOPEZ IV, ROBERT M. BRUTINEL, CLINT BOLICK, JAMES P. BEENE, WILLIAM G. MONTGOMERY, and KATHRYN H. KING,
Defendants.

Case No.: 24-CV-02175-PHX-GPC

ORDER (1) DENYING PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE; (2) DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION; (3) DENYING PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT; AND (4) GRANTING DEFENDANTS' MOTION FOR SANCTIONS

[ECF Nos. 42, 43, 44, 47]

Before the Court are Plaintiff's motion for leave to amend its complaint, ECF No. 43, which was filed alongside Plaintiff's request for judicial notice, ECF No. 42, and Plaintiff's motion for reconsideration, ECF No. 44. Defendants timely opposed the motion for leave to amend. ECF No. 46. Plaintiff did not timely file a reply brief.

Also before the Court is Defendants' motion for sanctions against Plaintiff's counsel. ECF No. 47. Plaintiff filed an opposition. ECF No. 51. Defendants filed a reply. ECF No. 53.

The Court has reviewed the papers on file in this matter and finds the motions suitable for decision without oral argument pursuant to Local Rule 7.2(f). For the reasons below, the Court DENIES Plaintiff's motion for reconsideration, DENIES Plaintiff's request for judicial notice, DENIES Plaintiff's motion for leave to amend its complaint, and GRANTS Defendants' motion for sanctions.

BACKGROUND

On August 26, 2024, Plaintiff filed the instant action against the Justices of the Arizona Supreme Court and the District Judges of the United States District Court for the District of Arizona ("Defendants"). ECF No. 1 ("Compl."). The complaint challenges the validity of Arizona's reciprocal rules of admission to the practice of law under the Constitution and federal law. *See generally* Compl. Arizona waives the bar examination requirement for experienced, licensed attorneys from 41 states, and those 41 states reciprocate this waiver for experienced, licensed attorneys from Arizona. *Id.* ¶ 13(A), (B). Licensed attorneys from the other nine states are not granted the same waiver because their state bars do not share the same reciprocity with the Arizona Bar. *Id.* Plaintiff alleges that these reciprocal rules of admission violate the constitutional rights of attorneys who are not provided a waiver. *Id.* ¶¶ 38-92.

On March 19, 2025, the Court granted Defendant's motion to dismiss Plaintiff's complaint in full. *See* ECF No. 41. The Court granted Plaintiff limited leave to amend. *Id.* at 30. Specifically, the Court allowed Plaintiff to file a motion for leave to amend its complaint, but only to add new claims not previously considered by the Court.[1] *Id.* On April 9, 2025, Plaintiff filed a motion for leave to file an amended complaint, along with its proposed First Amended Complaint ("proposed FAC"). ECF Nos. 43 & 43-1.[2] Despite the Court's explicit instructions, the proposed FAC brings the same constitutional claims: (A) violations of the Fourteenth Amendment equal protection clause, Article IV § 2 privileges and immunities clause, Fourteenth Amendment privileges and immunities clauses; (B) violations of the First Amendment free speech clause;[3] and (C) violations of the Fifth and Fourteenth Amendment procedural due process clauses. ECF No. 43-1 ("Proposed FAC") ¶¶ 61–68, 86–152. The proposed FAC also re-alleges a claim under 28 U.S.C.

[1] The Court dismissed the claims in the original complaint without leave to amend. ECF No. 41 at 30.

[2] Plaintiff filed a request for judicial notice alongside the motion for leave to amend its complaint. ECF No. 42. Plaintiff requests judicial notice of the Supreme Court's grant of certiorari in *Chiles v. Salazar*, No. 24-539, 2025 WL 746313 (U.S. Mar. 10, 2025). *Id.* at 2. Plaintiff argues that the Supreme Court's granting of certiorari in *Chiles* "directly calls into question" several Ninth Circuit professional speech decisions. But the Court did not rely on any of these cases, nor did it rely on the professional speech doctrine, in its order granting the motion to dismiss. The Court therefore DENIES Plaintiff's request for judicial notice because the materials Plaintiff asks the Court to judicially notice are irrelevant. *See Pearson v. Arizona*, 2020 WL 5544373, at *2 (D. Ariz. Sept. 16, 2020) ("Although relevance is not explicitly required to satisfy Rule 201, the Ninth Circuit has declined to take judicial notice of facts that are irrelevant.") (citing *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006); *Flick v. Liberty Mut. Fire Ins. Co.*, 205 F.3d 386, 392 n.7 (9th Cir. 2000)).

[3] As this Order will discuss in more detail below, the Proposed FAC attempts to repackage the First Amendment claims as "new" or "different" claims.

§ 1738. *Id.* ¶¶ 69–85. Defendants opposed the motion for leave to amend, arguing that the proposed FAC fails to allege any new claims and that, in any event, the proposed amendments are futile. ECF No. 46. Plaintiff failed to file a timely reply.[4]

On April 9, 2025, Plaintiff also filed a motion for reconsideration of the Court's First Amendment rulings in its Order Denying Defendants' Motion to Dismiss the Complaint. ECF No. 44.[5]

On April 22, 2025, Defendants filed a motion for sanctions against Plaintiff's counsel, Joseph R. Giannini. ECF No. 47. On May 15, 2025, Plaintiff filed an

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[4] Plaintiff filed a reply on May 8, 2025. ECF Nos. 49 & 50. But under Local Rule 7.2(d), Plaintiff had "seven (7) days after service of the responsive memorandum to file a reply memorandum[.]" Defendants filed their responsive memorandum on April 22, 2025, which means that Plaintiff had until April 30, 2025 to file a timely reply. Plaintiff therefore filed a reply over a week late and entirely failed to show any good cause for its untimely filing. *See generally* ECF No. 49. This is not the first time Plaintiff has flouted the Court's deadlines. Previously, Plaintiff failed to timely oppose Defendants' motion to dismiss, and instead filed a procedurally improper amended complaint. *See* ECF Nos. 16 & 23. Plaintiff never addressed its failure to oppose or offered any good cause for its delay. The Court ultimately set a new briefing schedule after denying its first motion for leave to amend, which offered Plaintiff a new opportunity to oppose the motion to dismiss. ECF No. 29 at 7. Here, due to the lack of good cause for the untimely filing, the Court will not consider Plaintiff's reply brief in deciding this motion. *See Anderson v. AMR*, 348 F. App'x 322, 323 (9th Cir. 2009) ("[t]he district court did not abuse its discretion in refusing to consider Anderson's second untimely filed opposition") (citing *Adams v. Cal. Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007) ("[d]istrict courts retain broad discretion to control their dockets")).

[5] Pursuant to Local Rule 7.2(g)(2), Defendants did not oppose this motion because the Court did not order a response.

opposition.[6] ECF No. 51. On May 21, 2025, Defendants filed a reply. ECF No. 53.[7]

MOTION FOR RECONSIDERATION

The Court will first consider Plaintiff's motion for reconsideration of the Court's First Amendment rulings in its Order Denying Defendants' Motion to Dismiss the Complaint. ECF No. 44.

The motion is untimely under the Local Rules. Pursuant to Local Rule 7.2(g)(2), "[a]bsent good cause shown, any motion for reconsideration shall be filed no later than fourteen (14) days after the date of the filing of the Order that is subject to the motion." Plaintiff's motion was filed 21 days after the Order that is subject to the motion. *See* ECF No. 41. Non-compliance with the Local Rules is grounds for summary denial of the motion. *See* L.R. 7.2(i).

Moreover, Plaintiff's motion fails on the merits. Local Rule 7.2(g)(1) states that "[n]o motion for recon-

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[6] Pursuant to Local Rule 7.2(c), Plaintiff's opposition was due on May 6, 2025. In Plaintiff's untimely opposition, it explained that its delay in responding was due to unsuccessful attempts to informally resolve the matter with Defendants' counsel. ECF No. 51 at 4–5. Considering the need to give notice and an opportunity to be heard before entering the type of pre-filing order Defendants request, *see Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007), the Court will consider Plaintiff's opposition in deciding the motion for sanctions.

[7] On May 25, 2025, Plaintiff improperly filed a sur-reply to the motion for sanctions under the guise of a "Notice of Errata" regarding Defendants' reply brief. ECF No. 54. Because Plaintiff did not obtain leave of Court to file this sur-reply, the Court will not consider this filing in deciding the motion for sanctions. *See Briggs v. Montgomery*, 2019 WL 13039282, at *2 (D. Ariz. Mar. 19, 2019) ("Neither Fed. R. Civ. P. 7 nor the local rules of practice for this District provide for the filing of a sur-reply, and sur-replies are not authorized by any other rules of procedure absent express prior leave of the Court.").

sideration of an Order may repeat any oral or written argument made by the movant in support of or in opposition to the motion that resulted in the Order." Plaintiff's motion for reconsideration merely repeats Plaintiff's previous arguments regarding the applicability of the Ninth Circuit's decision in *NAAMJP v. Berch*, 773 F.3d 1037 (9th Cir. 2014), to its claims. *See, e.g.,* ECF No. 44 at 2 (arguing that *Berch* "was resolved through a summary judgment motion, rather than a Rule 12(b)(6) motion"). Because "Plaintiff's motion for reconsideration simply restates arguments previously considered by the Court …, Plaintiff has not shown his entitlement to reconsideration under Local Rule of Civil Procedure 7.2(g) or the standards routinely applied by this Court." *Taylor v. AFS Techs., Inc.*, 2010 WL 11515549, at *2 (D. Ariz. June 1, 2010) (citing *Motorola, Inc. v. J.B. Rodgers Mech. Contractors, Inc.*, 215 F.R.D. 581, 586 (D. Ariz. 2003)).

The Court therefore DENIES Plaintiff's motion for reconsideration.

MOTION FOR LEAVE TO AMEND

I. Legal Standards

Under Federal Rule of Civil Procedure ("Rule") 15, a party may amend their pleading once as a matter of course within 21 days after service of a motion under Rule 12(b).[8] Fed. R. Civ. P. 15(a)(1)(B). Otherwise, a party may amend only by leave of court or by written consent of the adverse party.[9] Fed. R. Civ. P. 15(a)(2).

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[8] Here, Defendants served Plaintiff with a Rule 12(b)(6) motion on September 27, 2024, ECF No. 13, thus, Plaintiff had until October 18, 2024 to amend as of right under Rule 15(a)(1). This deadline passed by the time Plaintiff filed the FAC on November 28, 2024. ECF No. 23.

[9] Plaintiff notes that its attempts to obtain Defendants' consent

Here, Plaintiff's only path to amendment is leave of court.

"The court should freely give leave when justice so requires," *id.*, and this policy should be "applied with extreme liberality," *Warren v. Penzone*, 2024 WL 2246257, at *7 (D. Ariz. May 17, 2024) (quoting *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003)). "Thus, Plaintiffs' amendment request should be granted unless 'the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile.'" *Id.* (quoting *AmerisourceBergen Corp. v. Dialysist W., Inc.*, 465 F.3d 946, 951 (9th Cir. 2006)). Absent prejudice or a strong showing of any of the other factors, there is a "presumption under Rule 15(a) in favor of granting leave to amend." *Eminence Cap.*, 316 F.3d at 1052.

II. Analysis

In granting Defendants' motion to dismiss the original complaint, the Court denied Plaintiff leave to amend as to all claims which the Court dismissed in its Order. ECF No. 41. However, the Court granted Plaintiff an opportunity to request leave to amend its complaint to add "claims not addressed in th[e] Order." *Id.* at 30. For the reasons below, the Court finds that each claim Plaintiff brings in its proposed FAC was already dismissed by the Court in its prior Order, either because they are the same claims or because Plaintiff unsuccessfully attempts to repackage the same claims as different claims.

Plaintiff's motion for leave to amend largely spends its pages repeating arguments about *Berch*'s applicability to its claims. *See* ECF No. 43 at 1–6. Plain-

to amend its complaint were unsuccessful. ECF No. 1-4.

tiff's arguments regarding amendment include: (1) an argument that dismissal at the 12(b)(6) stage without further leave to amend violates due process, *id.* at 2; and (2) an argument that its professional speech, neutral and generally applicable, and retaliation claims are "new claims" that were not previously dismissed, *id.* at 5–7.

Defendants correctly point out in their opposition that Counts One, Two, and Four in the proposed FAC overtly reassert Counts One, Two, and Four from the original complaint, all of which the Court already addressed and dismissed. *See* ECF No. 41. The same goes for certain claims within the proposed FAC's Count Three, including claims based on the right to petition; prior restraint; viewpoint, speaker, and content discrimination; and the right to associate. Proposed FAC ¶¶ 91–104, 127–40, The Court denied leave to amend the already-dismissed claims because amendment of those claims would be futile. ECF No. 41 at 30. Accordingly, the Court DENIES leave to file the proposed FAC as to Counts One, Two, and Four.

Plaintiff argues, however, that the proposed FAC's Count Three includes claims regarding the professional speech doctrine, whether the challenged rules are neutral and generally applicable, and retaliation claims, all of which are "new claims" that were not previously dismissed. ECF No. 43 at 5–7. Defendants respond that Plaintiff merely repackaged claims and arguments that the Court previously rejected, and that Plaintiff cannot reassert these claims because they were already dismissed. ECF No. 46 at 2–4. Defendants are correct.

Plaintiff's original complaint made allegations regarding professional speech. *See* Compl. ¶ 45 ("the *practical* effect of the Arizona Supreme Court's tit-fortat licensing paradigm is to discriminate against out-of-state attorneys from nine states and a create a *proxy* for [] professional speech…"). Further, Plaintiff's re-asserted theory was discussed heavily in the motion to dismiss briefing. *See* ECF No. 30 at 12–13; ECF No. 31 at 3. And, based on the briefing, the Court rejected Plaintiff's theory in its Order granting the motion to dismiss. ECF No. 41 at 13–14. Plaintiff cannot now reallege this claim because it was already rejected by the Court.

Plaintiff's original complaint also alleged viewpoint discrimination, speaker discrimination, and that Arizona's reciprocal admission rule was content based. Compl. ¶¶ 73–78. Again, the parties discussed the rule's neutrality heavily in their briefs. ECF No. 13 at 7–9; ECF No. 30 at 14–16 (discussing whether the rule is neutral and generally applicable); ECF No. 31 at 3–5. The Court held that the rule is content neutral, applied the appropriate level of scrutiny, and dismissed Plaintiff's claims. ECF No. 41 at 24–26. Because the Court already rejected this theory, Plaintiff's attempt to repackage it as a claim that the rule is not neutral and generally applicable, and therefore subject to strict scrutiny, fails.

Plaintiff's original complaint also alleged First Amendment retaliation. Compl. ¶ 66A. Defendant's motion to dismiss directly analyzed the claim, ECF No. 13 at 10–11. The Court subsequently dismissed all of Plaintiff's First Amendment claims without leave to amend, and most relevant here, found that Arizona's reciprocal admission rule is a reasonable time, place, and manner restriction. ECF No. 41 at 22–27, 30. This finding was fatal to Plaintiff's retaliation claim, as the equal enforcement of a constitutional time, place, and manner restriction against a large group of individuals cannot constitute retaliation against Plaintiff, nor would it "chill a person of ordinary firmness from continuing to engage in a protected activity." *Fitzpatrick v. Little*, 2024 WL 1308925, at *4 (D. Idaho Mar. 26, 2024) (citing *Capp v. Cnty. Of San Diego*, 940 F.3d 1046, 1053 (9th Cir. 2019) (stating the elements of a First Amendment retaliation claim)). Plaintiff cannot reallege this claim, which the Court previously dismissed, in an amended complaint.[10]

Accordingly, the Court DENIES Plaintiff's motion for leave to amend because it does not allege any new claims which have not already been dismissed by the Court.[11]

MOTION FOR SANCTIONS[12]

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[10] Moreover, each of these theories were clearly already known to the Plaintiff at the inception of this action, which weighs against granting leave to amend. *See Acri v. Int'l Ass'n of Machinists & Aerospace Workers*, 781 F.2d 1393, 1398 (9th Cir. 1986) (citation omitted).

[11] Plaintiff also attached declarations from its members to its proposed FAC. *See* ECF Nos. 43-2–43-6. However, as the Court previously noted, "[n]o additional factual allegations could possibly cure the deficiencies in Plaintiff's legal theories." ECF No. 41 at 30. Because Plaintiff does not assert any new legal theories in the proposed FAC, these amendments are similarly futile here.

Relatedly, Plaintiff's attempt to revive its as-applied constitutional challenges fails here too. The Court previously found that "Plaintiff has failed to allege that the reciprocal admission rule is unconstitutional as applied in this specific scenario, or in any context at all." ECF No. 41 at 26 n.13. The Court dismissed these claims without leave to amend. *Id.* at 26 n.13, 30. Therefore, Plaintiff cannot amend his complaint to reassert these as as-applied claims.

[12] Mr. Giannini argues, without citing any case law, that the Court should not decide Defendants' motion for sanctions without first providing him 30 days to find independent counsel.

Defendants moved for sanctions against Plaintiff's counsel, Mr. Giannini. ECF No. 47. Specifically, Defendants ask the Court to enter a pre-filing order. Specifically, the order requires Mr. Giannini to obtain leave of the Chief Judge of this court before filing further actions "regarding admission to and the regulation of the practice of law in the State of Arizona." *Id.* at 1 (quoting *Paciulan v. George*, 38 F. Supp. 2d 1128, 1145 (N.D. Cal. 1999), *aff'd*, 229 F.3d 1226 (9th Cir. 2000)).

I. Legal Standards

Under Rule 11(b), an attorney who signs, files, submits, or later advocates for a "pleading, written motion, or other paper" certifies that:

> it is not presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; [and] (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

Fed. R. Civ. P. 11(b). Generally, sanctions are appropriate under Rule 11 when an attorney files

However, Mr. Giannini had adequate notice to find counsel and, regardless, offered his own opposition to the motion already. The Court finds this sufficient to decide the motion on the current record. Accordingly, the Court DENIES Mr. Giannini's request for a 30-day continuance.

papers that are frivolous, that is, papers that are "baseless and made without a reasonable and competent inquiry." *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990). Whether a filing is frivolous is an objective inquiry: "[t]he issue in determining whether to impose sanctions under Rule 11 is whether a reasonable attorney, having conducted an objectively reasonable inquiry into the facts and law, would have concluded that the offending paper was well-founded." *Truesdell v. So. Cal. Permanente Med. Grp.*, 209 F.R.D. 169, 174 (C.D. Cal. 2002); *see also Holgate v. Baldwin*, 425 F.3d 671, 677 (9th Cir. 2005).

A violation of Rule 11 is grounds for sanctions, including "nonmonetary directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation." Fed. R. Civ. P. 11(c)(4); *Ringgold-Lockhart v. Cnty. of L.A.*, 761 F.3d 1057, 1065 (9th Cir. 2014). Ultimately, "Rule 11's express goal is deterrence." *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994).

II. Discussion

Defendants primarily contend that Plaintiff's motion for leave to file the proposed FAC was both frivolous and directly defied the Court's previous dismissal order. *Id.* at 1. Defendants assert that Mr. Giannini's prior conduct in this case supports their motion for sanctions as well. *Id.* at 1–2. Plaintiff responds that the Court should deny the motion because (1) attorneys cannot be vexatious litigants, (2) the proposed FAC is "not a sham," and (3) Defendants' motion for sanctions creates a conflict of interest between Mr. Giannini and Plaintiff. ECF No. 51 at 1–5.[13] Alternatively, Plaintiff requests a 30-day continuance for Mr. Giannini to seek his own counsel. *Id.* at 7–9.

First, the Court addresses whether it can enter a pre-filing order against an attorney. Defendants base their request on *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057–58 (9th Cir. 2007), where the Ninth Circuit explained that district courts have discretion to enter pre-filing orders against "vexatious litigants." However, as Mr. Giannini notes in his opposition, the Ninth Circuit has been wary of entering such orders against attorneys on the grounds that they are vexatious litigants. *See Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999) ("We therefore conclude that an attorney appearing on behalf of a client cannot be sanctioned as a vexatious litigant; by definition, he or she is acting as an attorney and not as a litigant."); *Ringgold-Lockhart*, 761 F.3d at 1061 (noting that the district court entered a pre-filing order against plaintiff "in her capacity as an individual, not as an attorney, to comply with the Ninth Circuit's holding in *Weissman*, where it found "that attorneys could not be sanctioned as vexatious litigants"). Indeed, the *Molski* test itself describes its procedural and substantive analysis as a method to determine who is a "vexatious litigant." *See Molski*, 500 F.3d at 1057–58 ("the factors define a specific method or course of action that district courts should use to assess whether to declare a party a vexatious litigant and enter a pre-filing order"). Thus, *Molski*'s vexatious litigant test is not the appropriate avenue for entering a pre-filing order

[13] Defendant also improperly attempts to re-litigate aspects of the motion to dismiss in its opposition. ECF No. 51 at 5–7.

against an attorney.

However, as Defendants note, the *Molski* court also affirmed the district court's sanctioning of plaintiff's *attorneys* by entering a similar pre-filing order against the firm. *See id.* at 1062–65. The Ninth Circuit crafted a substantially similar test for entering pre-filing orders against attorneys. "As a procedural matter … the district court must afford the attorney notice and an opportunity to be heard. As a substantive matter, justifications for imposing a pre-filing sanction on an attorney include the attorney's willful abuse of the judicial process, bad faith conduct during litigation, or filing frivolous papers." *Id.* at 1063 (citing *Weissman*, 179 F.3d at 1198) (internal quotation marks and citations omitted). Further, the pre-filing order "must be tailored to curtail the attorney's particular misconduct." *Id.* (citing, *inter alia*, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–44 (1991)). Accordingly, the Court will consider Defendants' motion in light of this standard. *See also Paciulan*, 38 F. Supp. 2d at 1145–47 (entering pre-filing order against Mr. Giannini after finding that plaintiff's—his client's—case was legally frivolous and filed for an improper purpose and that a pre-filing order was appropriate given the previous ineffectiveness of monetary sanctions).

The Court will first consider whether the procedural requirement is met here. Defendants filed the instant motion for sanctions on April 22, 2025, which gave Mr. Giannini ample notice of the possibility for sanctions. Further, Molski had an opportunity to oppose the motion in writing. This is sufficient to give Mr. Giannini notice and an opportunity to be heard. *See Molski*, 500 F.3d at 1058 (finding sufficient notice and an opportunity to be heard where motion was filed and served on plaintiff's counsel, and where plaintiff opposed the motion in writing and at the hearing); *see also Pac. Harbor Cap., Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112, 1118 (9th Cir. 2000) (finding, where a court sanctioned an attorney, that "an opportunity to be heard does not require an oral or evidentiary hearing on the issue," and that "[t]he opportunity to brief the issue fully satisfies due process requirements").

As for the substantive requirements, Defendants argue that Mr. Giannini's filings in this case, specifically the motion for leave to amend, have been frivolous. The Court agrees for two reasons: (1) Plaintiff's motion for leave to amend contravened the Court's prior order; and (2) Plaintiff's complaint, proposed FAC, and other filings throughout this litigation have been objectively baseless. First, the Court made clear in its order granting Defendants' motion to dismiss that it was not granting leave to amend any claims in Plaintiff's original complaint, and that Plaintiff could only amend its complaint insofar as it brought claims that the Court had not already dismissed. *See* ECF No. 41 at 29–30. Plaintiff's motion for leave to amend its complaint flew in the face of the Court's directive. Instead of bringing only new claims, the proposed FAC re-alleged all prior dismissed claims and attempted to repackage previously alleged claims as new ones. A reasonable attorney would not have found the motion well-founded after conducting an objectively reasonable inquiry into the facts and law, and specifically after reviewing the Court's granting of limited leave to amend. Accordingly, the motion for leave to amend that Giannini filed on behalf of his client was baseless and frivolous.

Second, it is worth examining the broader context of this litigation and Mr. Giannini's history of bringing these types of claims. Indeed, as the Court has noted before, *see* ECF No. 41 at 10 n.6, Mr. Giannini has been unsuccessful in challenging bar admission rules on substantially similar legal theories across the country for decades. The Court's review of past case law reveals numerous unsuccessful challenges steered by Mr. Giannini, either as a plaintiff or as counsel. *See Nat'l Ass'n for Advancement of Multijurisdiction Practice ("NAAMJP") v. Berch*, 773 F.3d 1037 (9th Cir. 2014) (unsuccessful challenge to Arizona's reciprocal bar admissions rule); *Paciulan*, 229 F.3d at 1226 (challenging California state court pro hac vice admission rule, affirming district court's imposition of pre-filing order on Mr. Giannini); *Blye v. Kozinski*, 466 F. App'x 650 (9th Cir. 2012) (dismissing complaint because of Mr. Giannini's failure to comply with *Paciulan* pre-filing order); *Giannini v. Real*, 911 F.2d 354 (9th Cir. 1990) (challenging California bar admission rules); *Giannini v. Comm. of Bar Exam'rs of State Bar of Cal.*, 847 F.2d 1434 (9th Cir. 1988) (same); *NAAMJP v. Gonzales*, 211 F. App'x 91 (3d Cir. 2006) (challenging district court admissions rules); *NAAMJP v. Simandle*, 658 F. App'x 127 (3d Cir. 2016) (same); *Lawyers for Fair Reciprocal Admission ("LFRA") v. United States*, 2023 WL 145530 (D.N.J. Jan. 10, 2023) ("[t]his case represents yet another effort by Plaintiff's counsel, Joseph Giannini, to establish a legal right for lawyers to practice law in jurisdictions that lack bar reciprocity with the state where such lawyers are barred. Mr. Giannini has filed many such cases in courts across the country over the last several decades…"); *NAAMJP v. Castille*, 799 F.3d 216 (3d Cir. 2015) (challenging Pennsylvania's reciprocal bar admissions rule); *LFRA v. United States*, 2024 WL 987979 (D. Ariz. Mar. 7, 2024) (challenging Arizona's reciprocal bar admissions rule); *NAAMJP v. Lynch*, 826 F.3d 191 (4th Cir. 2016) (challenging district court admissions rule); *NAAMJP v. Roberts*, 180 F. Supp. 3d 46 (D.D.C. 2015) (same). Notwithstanding the constant slew of opinions issued by respected jurists across the country, all invariably finding that Mr. Giannini's legal theories are untenable, Mr. Giannini continues to lodge the same challenges to bar and court admissions rules. This includes several unsuccessful challenges recently brought by the same Plaintiff as in the instant case. The numerous unsuccessful challenges based on the same legal theories also support a finding that Mr. Giannini's filings in this case are "baseless and made without a reasonable and competent inquiry." *Townsend*, 929 F.2d at 1362; *see also Molski*, 500 F.3d at 1063 (finding that, where the attorneys "filed numerous complaints containing false factual allegations, thereby enabling [their client's] vexatious litigation," there were sufficient grounds to impose a pre-filing order); *Paciulan*, 38 F. Supp. 2d at 1146–47 (finding Mr. Giannini's filings to be frivolous where, "[a]t a minimum," two courts had rejected plaintiff's claims).

Lastly, the Court considers whether requested pre-filing order is tailored to curtail Mr. Giannini's misconduct. The order requires Mr. Giannini to obtain leave of the Chief Judge of this court before filing further actions "regarding admission to and the regulation of the practice of law in the State of Arizona." As Defendants correctly contend, such a pre-filing order "appropriately covers only the types of claims [Mr. Giannini has been filing vexatiously"—bar admission claims. *Molski*, 500 F.3d at 1061. Further, the pre-filing order still allows meritorious bar admission claims after "an initial screening review by a district judge." *Id.* Further, the Court notes that monetary sanctions "have not deterred Giannini in the past," which supports the need for a pre-filing order to curtail any further misconduct. *Paciulan*, 38 F. Supp. 2d at 1147. Lastly, "[a]t least two courts have gone so far as to enjoin Mr. Giannini from filing additional cases challenging bar admission rules without leave of court," which further supports the narrowly tailored pre-filing order here. *LFRA v. United States*, 2023 WL 145530, at *1 (citing *NAAMJP v. Bush*, No. 05-cv-5081, ECF No. 43, slip op. at 9 (E.D. Pa. Mar. 23, 2006), *aff'd sub nom. Gonzales*, 211 F. App'x at 93; *Paciulan*, 38 F. Supp. 2d at 1146-47, *aff'd*, 229 F.3d at 1226).

The Court can easily dispose of Mr. Giannini's other arguments against the imposition of a pre-filing order. He argues that a lawsuit cannot be enjoined unless it is a "sham" under *Professional Real Estate Invs., Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49 (1993). But in *Columbia Pictures*, the Supreme Court addressed the "sham" exception to the antitrust immunity doctrine. *Id.* at 51. This doctrine has no applicability here, and the Court does not rely on it to reach its conclusion here. Mr. Giannini further argues, without citing any authority that Defendants' motion for sanctions creates an impermissible conflict of interest between himself and his client. But, in addition to the lack of any precedent for this argument, the Court notes that Mr. Giannini's misconduct is tied to his advocacy for Plaintiff's own claims. It is difficult to see how there could be a conflict given the alignment of Mr. Giannini and Plaintiff's interests.

Accordingly, the Court finds that Defendants' requested pre-filing order is warranted here. The Court therefore ORDERS as follows:

Joseph R. Giannini is hereby ENJOINED from filing any further actions, either as an attorney or a party, in the United States District Court for the District of Arizona, regarding admission to and the regulation of the practice of law in the State of Arizona without first obtaining leave of the Chief Judge of this court. If Mr. Giannini wishes to file further actions regarding admission to and the regulation of practice of law in the District of Arizona, Mr. Giannini must attach a copy of this order to his application for leave to file such actions and supply a declaration supporting the application stating: (1) that the matters asserted in the new action have not previously been raised by him, as an attorney or a party, and disposed of on the merits by any court, state or federal; (2) that the claims are not frivolous or made in bad faith; and (3) that Giannini has conducted a reasonable investigation of the facts and certifies that they are accurate. Failure to comply with any of these conditions shall be sufficient grounds to deny the application or dismiss the action, and any violation of this injunction may be treated as contempt of court. *See Paciulan*, 38 F. Supp. 2d at 1147.

***

For the above reasons, the Court DENIES Plaintiff's motion for reconsideration, DENIES Plaintiff's request for judicial notice, DENIES Plaintiff's motion for leave to amend its complaint, and GRANTS Defendants' motion for sanctions. Because the Court has now dismissed Plaintiff's complaint without leave to amend, the Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: May 30, 2025

Hon. Gonzalo P. Curiel

Hon. Gonzalo P. Curiel

United States District Judge

APPENDIX C

Order Denying Panel Rehearing and
Rehearing En Banc
United States Court of Appeals for the Ninth Circuit
No. 25-3551, DktEntry 59.1 (July 2, 2026)

FILED
JUL 2 2026
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LAWYERS FOR FAIR RECIPROCAL ADMISSION,
Plaintiff – Appellant,

v.

ANN A. SCOTT TIMMER, Chief Justice of the Arizona Supreme Court; et al., *Defendants – Appellees*.

No. 25-3551
D.C. No. 2:24-cv-02175-GPC
District of Arizona, Phoenix

ORDER

Before: GOULD, BERZON, and HURWITZ, Circuit Judges.

The panel has unanimously voted to deny the petition for panel rehearing. Judge Gould voted to deny the petition for rehearing en banc; Judges Berzon and Hurwitz so recommended. The petition for rehearing en banc was circulated to the judges of the Court, and no judge requested a vote for en banc consideration. Fed. R. App. P. 40(c).

The petition for rehearing and rehearing en banc, Dkt. 58, is DENIED.

APPENDIX D
CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. art. VI, cl. 2 (Supremacy Clause)

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

28 U.S.C. § 1738 — State and Territorial statutes and judicial proceedings; full faith and credit

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

50 U.S.C. § 4025a — Portability of professional licenses of servicemembers and their spouses (as amended by Pub. L. No. 118-159, § 587, Dec. 23, 2024)

(a) In general. If a servicemember or the spouse of a servicemember has a covered license and relocates residence because such servicemember receives military orders for military service in a State other than the State of the licensing authority that issued the covered license, such covered license shall be considered valid for the scope of practice in the State of the new residence if such servicemember or spouse submits to the licensing authority of such State an application described in subsection (c).

(b) Temporary licenses. If a licensing authority is required to consider a covered license valid under subsection (a) but cannot carry out such requirement during the 30 days after receiving an application described in subsection (c), the licensing authority may issue to the applicant a temporary license that confers the same rights, privileges, and responsibilities as a permanent license.

(c) Application. An application described in this subsection includes the following:

(1) Proof of military orders described in subsection (a).

(2) If the applicant is the spouse of a servicemember, a copy of the marriage certificate.

(3) A notarized affidavit affirming, under the penalty of law, that—

(A) the applicant is the person described and identified in the application;

(B) all statements made in the application are true and correct and complete;

(C) the applicant has read and understands the requirements to receive a license, and the scope of practice, of the State of the licensing authority;

(D) the applicant certifies that the applicant meets and shall comply with requirements described in subparagraph (C); and

(E) the applicant is in good standing in all States in which the applicant holds or has held a license.

(d) Background checks. A licensing authority that receives an application described in subsection (b) may conduct a background check of the applicant before carrying out subsection (a) or (b).

(e) Interstate compacts. If a servicemember or spouse of a servicemember has a covered license to operate in multiple States pursuant to an interstate compact described in section 1784 of title 10—

(1) the servicemember or spouse of a servicemember shall be subject to the requirements of such com-

pact or the applicable provisions of law of the applicable State; and

(2) this section shall not apply to such servicemember or spouse of a servicemember.

(f) Definitions. In this section:

(1) The term "covered license" means a professional license that, with respect to a scope of practice—

(A) is in good standing with the licensing authority that issued such license;

(B) has not been revoked or had discipline imposed by any State;

(C) does not have an investigation relating to unprofessional conduct pending in any State relating to it; and

(D) has not been voluntarily surrendered while under investigation for unprofessional conduct in any State.

(2) The term "license" means any license, certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in, or represent himself or herself to be a member of, a particular profession.

(3) The term "licensing authority" means any State board, commission, department, or agency that—

(A) is established in the State for the primary purpose of regulating the entry of persons into or the conduct of persons within, a particular profession; and

(B) is authorized to issue licenses.

(4) The term "military orders" has the meaning given such term in section 3955 of this title.

(5) The term "scope of practice" means the defined parameters of various duties or services that may be provided by an individual under a license.

A.R.S. § 32-4302 — Out-of-state applicants; resi-

dents; military spouses; licensure; certification; exceptions; notice

A. Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of station to a military installation located in this state if all of the following apply:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.

2. The person has been licensed or certified by another state for at least one year.

3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state.

4. The person previously passed an examination required for the license or certification if required by the other state.

5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct.

6. The person has not had discipline imposed by any other regulating entity. If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.

7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.

8. The person pays all applicable fees.

9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04.

B. This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

C. Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.

D. A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.

E. This section does not apply to:

1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title.

2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact.

4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in order to access state and federal criminal records information for noncriminal justice purposes.

F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.

G. A regulating entity under this title shall prominently print the following notice on all license and certificate applications and regulating entity websites:

Pursuant to section 32-4302, Arizona Revised Statutes, a person shall be granted an occupational or professional license or certificate if the person has been licensed or certified in another state for at least twelve months, the license or certificate is in the same discipline and at the same practice level as the license or certificate for which the person is applying in this state and the person meets other conditions prescribed by section 32-4302, Arizona Revised Statutes.

H. Before any regulating entity takes any official action to deny a professional or occupational license that a person applies for pursuant to this section, the regulating entity shall submit the application and the reason for denial to the governor for review. The regulating entity shall notify the governor of any required time frames for approval or denial of the license application by the regulating entity.

I. Beginning July 1, 2022, all regulating entities that are required to issue occupational or professional licenses pursuant to this section shall track information about applications received in the format to be determined by the governor and annually report that information to the governor.

J. For the purposes of subsections H and I of this section, "regulating entity":

1. Means all executive departments, agencies and offices and all state boards and commissions.

2. Does not include:

(a) A state agency that is headed by a single elected state official.

(b) The corporation commission.

(c) Any board or commission established by ballot measure at or after the November 1998 general election.

(d) The judiciary.

Arizona Supreme Court Rule 34 — Application for Admission (as amended effective January 1, 2026)

(a) Methods of Admission to the Practice of Law in Arizona. Persons desiring to be admitted to the practice of law in the State of Arizona may apply for admission by one of three methods: (1) admission by Bar Exam, as defined in Rule 35(a)(1), (2) admission on motion, or (3) admission by transfer of bar examination score from another jurisdiction.

(b) Applicant Requirements and Qualifications.

1. No applicant will be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

A. the applicant is over the age of 21 years;

B. the applicant is of good moral character;

C. the applicant is mentally, emotionally and physically able to engage in the practice of law, and possesses the required knowledge of the law to do so;

D. the applicant is a graduate with a juris doctor from a law school provisionally or fully approved by the American Bar Association at the time of graduation or the applicant is a graduate with a juris doctor and has been actively engaged in the authorized practice of law in one or more states, territories, or the District of Columbia for at least 3 of the last 5 years prior to filing an application for admission to practice in Arizona;

E. if ever admitted to practice in any jurisdiction, foreign or domestic, the applicant is presently in good standing concerning discipline, payment of mandatory dues and compliance with mandatory legal education, or the applicant resigned in good standing in that jurisdiction; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

F. the Bar Exam applicant has successfully completed the course on Arizona law described in paragraph (i) of this rule; and

G. for applicants seeking admission under Rule 35, the applicant has earned a score deemed sufficient by the Court on a professional responsibility examination.

i. An applicant must pass a professional responsibility examination, which shall be the Multistate Professional Responsibility Examination prepared by the National Conference of Bar Examiners or an alternate professional responsibility examination, as deemed appropriate by the Court. An applicant seeking to take the Multistate Professional Responsibility Examination shall file an application directly with, and pay the fees specified by, the National Conference of Bar Examiners.

ii. The Court shall establish the minimum acceptable score for the Multistate Professional Responsibility Examination.

iii. An applicant must submit proof satisfactory to the Committee on Examinations that the applicant has taken the Multistate Professional Responsibility Examination and received a minimum acceptable score within 8 years of a successful Bar Exam or within the time frame for taking the oath of admission after the successful Bar Exam in order to have the applicant's score accepted by the Committee on Examinations.

2. An applicant may be allowed to sit for the Bar Exam prior to the award of a juris doctor degree if the applicant:

A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the

American Bar Association;

B. is expected to graduate with a juris doctor degree within 120 days of the first day of early exam administration;

C. has satisfied all requirements for graduation with a juris doctor except for not more than 8 semester hours or its equivalent in quarter hours at the time of early exam administration;

D. will not be enrolled in more than two semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;

E. has been determined by their school to be academically prepared for early testing;

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within 120 days of the first day of early exam administration, all parts of the Bar Exam, including the score, are void and the applicant's examination scores shall not be disclosed for any purpose. Scores may not be released until such time as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination that is voided shall count as an Attempt under Rule 35(a)(3).

At the completion of the juris doctor requirements and within 60 days after graduation, the applicant must cause his or her law school, dean, or registrar to submit to the Committee on Character and Fitness proof of graduation, showing his or her juris doctor was conferred within 120 days of the first day of early exam administration. Failure to complete the course of study within 120 days of the examination and provide evidence of graduation within an additional 60 days shall render the applicant's score void.

3. All applicants who received a passing grade on the Bar Exam and who are found to be otherwise qualified under these rules shall be recommended for admission to the practice of law.

4. The Committee on Character and Fitness shall endeavor to complete its inquiries, some or all of which may be delegated to the National Conference of Bar Examiners, to be in a position to recommend for or against a successful examinee's admission to the practice of law no later than the time the results of the Bar Exam are available for examination applicants. This time limitation is aspirational only and may be extended for further inquiry and formulation of a recommendation when the circumstances of a case so require.

(c) Application and Character Report Materials. Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Bar Exam applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For Bar

Exam applicants only, the character report and related fee may be submitted separately from the application for admission.

2. An applicant for admission under Rules 34(e) or 34(g) shall submit character investigation materials together with the application.

(d) Documents Required in Support of Application. The following must accompany every application:

1. subject to the exception made in paragraph (b)(1)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation;

2. if the applicant has been previously admitted to practice law in any jurisdiction, foreign or domestic, the certificate of the appropriate court agency(ies) or the mandatory bar association, whichever has custody of the roll of attorneys in such jurisdiction, indicating the date of admission and that the applicant is presently in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education, or that the applicant resigned in good standing in that jurisdiction; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

3. a full-face image of the applicant in a format as

established by the Court; and

4. a complete set of the applicant's fingerprints. The Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process. If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant must submit a written statement, under oath, that the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.

(e) Admission on Motion.

1. An applicant who meets the requirements of (A) through (G) of this paragraph (e)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. either (i) have been admitted by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule and primarily engaged in the active practice of law in one or more state(s), territories, or the District of Columbia for 3 of the 5 years immediately preceding the date upon which the application was filed, or (ii) have been admitted by bar examination to practice law in another jurisdiction that does not allow for admission of Arizona lawyers on a basis equivalent to this rule and thereafter were admitted to and primarily engaged in the active practice of law in another jurisdiction allowing admission of Arizona lawyers on a basis equivalent to this rule for 3 of the 5 years immediately preceding the date upon which the application is filed;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

D. establish that the applicant is currently a member in good standing or resigned in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory legal education, in all jurisdictions where admitted; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. For the purposes of this rule, the "active practice of law" shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory, or the District of Columbia be accepted toward

the durational requirement:

A. representation of clients in the practice of law;

B. service as a lawyer with a local, state, or federal agency, including military service;

C. teaching law full-time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

D. service as a judge in a federal, state, territorial, or local court of record;

E. service as a judicial law clerk;

F. service as corporate counsel; or

G. service as corporate counsel in Arizona while registered pursuant to Rule 38(a). Active practice performed within Arizona pursuant to Rule 38(a) may be applied to meet active practice requirements found in Rule 34(e)(1)(A)(ii) provided all other requirements of Rule 34(e) are met.

3. For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The "active practice of law" is further defined to require that at all times in the durational period the applicant has held a law license in "active" status.

4. An applicant shall not be eligible for admission on motion if within 3 years of filing the application the applicant has either 1) failed the Bar Exam, or 2) passed another jurisdiction's bar examination accepted by the Court, but failed to achieve the minimum passing score deemed acceptable by the Court.

5. The Court shall approve jurisdictions considered "reciprocal" to Arizona, and the Committee shall pub-

lish and make available a list of reciprocal jurisdictions.

(f) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of paragraph (e) of this rule and:

1. shall file an application for admission on motion, including character investigation information, in a manner established by the Court, including all required supporting documents;

2. shall pay the application fee as established by the Court; and

3. may request that the Committee perform an initial review of the applicant's application to determine whether the applicant meets the active practice requirement. The request must be received prior to the Committee commencing its investigation. Upon applicant's written request, the Committee shall determine whether applicant meets the active practice requirement and provide the applicant with a written determination. If applicant fails to meet the active practice requirement, the Committee shall refund that portion of the application fee as determined by the Court.

(g) Admission by Transfer of Bar Examination Score.

1. An applicant who has taken another jurisdiction's bar examination that is deemed acceptable by the Court and who meets the requirements of (A) through (G) of this paragraph (g)(1) may be admitted to the practice of law in this jurisdiction. Admission under this Rule 34(g) must be accomplished through score transfer from another jurisdiction's bar examination or other test of minimum competency deemed acceptable by the Court.

The applicant shall:

A. have achieved a score on another jurisdiction's bar examination that is equal to or greater than the minimum acceptable score established by the Court and that was earned within 5 years prior to the applicant's taking the oath of admission and being admitted to the practice of law in Arizona;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within 8 years of the date of application or within the time frame for taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations;

D. establish that the applicant is currently a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education in every jurisdiction, foreign or domestic, wherever admitted to practice law, or the applicant resigned in good standing; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (i) of this rule.

2. For the purpose of paragraph (g)(1)(A) of this rule, a score is considered to have been earned on the date of administration of the other jurisdiction's bar examination that resulted in the score.

3. An applicant who failed to earn the minimum acceptable score established by the Court within 4 attempts, regardless of where the bar examination was taken, shall not be eligible for admission by transfer of bar examination score under this paragraph.

4. Before being admitted under this Rule 34(g), the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the Supreme Court.

(h) Admission by Transfer of Bar Examination Score Application Filing; Fees. Any applicant seeking admission to the practice of law under Rule 34(g) shall:

1. file an application for admission by transfer of bar examination score, including character investigation information, in a manner established by the Court, including all required supporting documents, and

2. pay the application fee as established by the Court.

(i) Completion of Course on Arizona Law. Before being admitted, applicants applying to practice law in Arizona under Rules 34(e), 34(g), or 35 must complete a course on Arizona law, the content and delivery of which shall be approved by the Supreme Court.

(j) Deficiency in Character Report Materials. If the Committee on Character and Fitness finds that the character report materials are deficient, the Committee shall advise the applicant in writing of the deficiency and shall allow a reasonable time for the applicant either to submit additional written information or relevant documentation, or to correct or otherwise remedy the defects in the applicant's supporting documents. Thereafter, if such deficiencies have not been cured within the designated time period, the application shall be considered abandoned by the applicant and the Committee's review of the investigation into the applicant's character shall cease, and the Committee shall advise applicant of such abandonment and the reasons therefore. If the application has been abandoned for more than one year and the applicant later seeks to continue the admission process, applicant must submit a new application and associated fees.

(k) Failure to Meet Standards; Effect on Time for Reapplication. If the Committee or the Court has denied an applicant admission to the practice of law by reason of the failure to meet the standards required by paragraph (b) of this rule, such applicant may not reapply for a period of 5 years from the date of denial of admission, unless the Committee or the Court orders otherwise.

(l) Completion of Professionalism Course.

1. New Admittee Professionalism Course. Except as otherwise provided in this rule, within one year after being admitted to the practice of law, the applicant shall complete the state bar course on professionalism, or an equivalent course on the principles of professionalism approved or licensed by the Board of Governors of the State Bar of Arizona for this purpose.

A. A new admittee taking inactive status immediately upon admission is exempt from completing such a course but shall complete one within 12 months of becoming an active member of the state bar.

B. A new admittee who is an active member but neither resides nor practices law in Arizona is exempt from completing such a course but shall complete one within 12 months of becoming a resident of or commencing the practice of law in Arizona.

2. Summary Suspension. A new admittee who fails to comply with the requirements of paragraph (l)(1) of this rule shall be summarily suspended from the practice of law in Arizona, upon motion of the state bar pursuant to Rule 62, provided that a notice by certified, return receipt mail of such non-compliance shall have been sent to the member, mailed to the member's last address of record in the state bar office at least 30 days prior to such suspension, but may be reinstated in accordance with these rules.

Arizona Supreme Court Rule 38 — Certifications and Limited Admissions to Practice Law (as amended effective January 1, 2025)

(a) In-house Counsel.

(1) General Statement and Eligibility. As used in this rule, "in-house counsel" shall refer to an attorney who is employed within the State of Arizona as in-house counsel or a related position for a single for-profit or non-profit corporation, association, or other organizational entity, which can include its parents, subsidiaries and/or affiliates, the business of which is lawful. A lawyer who is not a member of the State Bar of Arizona who has been admitted to practice law in another jurisdiction may apply for an Arizona Certificate of Registration of In-House Counsel if all of the

following conditions are met:

(A) The applicant holds a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

(B) The applicant is currently a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education, whether active, inactive, or retired, of the bar of another state or the District of Columbia, or eligible to practice before the highest court in any state, territory or insular possession of the United States; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission; and

(C) The applicant is employed within the State of Arizona as in-house counsel, as hereinabove defined, may apply for an Arizona Certificate of Registration of In- House Counsel ("Registration Certificate").

(2) Foreign Lawyer Eligibility. A lawyer employed as in-house counsel within the State of Arizona who is admitted to practice and a member in good standing in a jurisdiction outside of the United States, in accordance with the standards and requirements generally applicable to the practice of law in that jurisdiction, may also apply for a Registration Certificate.

(3) Filing Requirements. Any attorney who commences employment by an eligible organization as in-

house counsel shall apply for a Registration Certificate within ninety (90) days of the date of commencement of employment.

(A) An applicant for a Registration Certificate shall:

(i) file with the State Bar of Arizona its form of verified application for an Arizona Certificate of Registration of In-House Counsel;

(ii) attach to the verified application a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States, or foreign jurisdiction, in which the applicant has been admitted to practice law certifying the current status of the applicant's membership or eligibility to practice therein;

(iii) certify that the applicant has read and is familiar with the Arizona Rules of Professional Conduct;

(iv) pay an application fee in an amount established by the Supreme Court; and

(v) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).

(B) Upon a determination by the State Bar of Arizona that the applicant has complied with the requirements of subdivision (3)(A), the State Bar shall issue to the applicant a Registration Certificate. The State Bar shall promptly notify any applicant if it determines that an application fails to comply with the requirements of subdivision (3)(A), and the applicant shall have thirty (30) days from the date of such notice in which to cure any deficiency. If the applicant fails to cure such deficiency within that thirty (30) day period, the application shall be deemed denied.

(C) An applicant may petition the Arizona Supreme Court for a waiver of any of the requirements for registration under this rule.

(4) Scope of Authority. Except as provided in this rule, the holder of a valid and current Registration Certificate shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona. A Registration Certificate shall not authorize the registrant to provide legal services to any person or entity except when providing legal services to the one for which the registrant serves as in-house counsel, or its parents, subsidiaries or affiliates, or when providing legal services under Rule 38(d).

(5) Discipline and Disability Jurisdiction. The holder of a Registration Certificate shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar.

(6) Termination of Certification. A lawyer's authority to practice as in-house counsel under a Registration Certificate issued pursuant to this rule shall be suspended when the lawyer is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States, or by any federal court or agency, or by any foreign nation before which that lawyer has been admitted to practice.

(7) Registration, Fees and CLE Requirements.

(A) On or before February 1 of each year, in-house counsel registered pursuant to the provisions of this rule, who continues to be employed as in-house counsel within the State of Arizona, shall renew the Registration Certificate and pay a renewal fee set by the Supreme Court.

(B) An attorney registered pursuant to this rule who has become employed by a different eligible entity but continues to meet all the requirements of this rule, must apply for the issuance of an amended Registration Certificate to reflect that change.

(C) A lawyer who has been issued a Registration Certificate under this rule shall satisfy the continuing legal education requirements, if any, of at least one of the other state(s) or jurisdiction(s) in which that lawyer is admitted to practice. If not subject to mandatory continuing legal education requirement in the other state(s) or jurisdiction(s), the lawyer shall comply with Arizona's continuing legal education requirements. On or before September 15 of each calendar year, every registered in-house counsel shall file an affidavit demonstrating full compliance with this rule.

(8) Reporting Requirements. Each lawyer issued a Registration Certificate shall report to the State Bar of Arizona, within thirty (30) days, any change in bar membership status in any jurisdiction of the United States or in any foreign jurisdiction where the applicant has been admitted to the practice of law, or the imposition of any disciplinary sanction by any federal or state court or agency before which the applicant has been admitted to practice, or in any state in which the lawyer has rendered legal services while temporarily authorized under any rule or by admission pro hac vice.

If there is a change in circumstances, and an attorney holding a current Registration Certificate becomes ineligible for such Certificate, the attorney shall notify the State Bar of Arizona of such change in writing within thirty (30) days.

(9) Pro Hac Vice Admission. In providing legal services to the lawyer's employer, a lawyer who has been issued a Registration Certificate under this rule may also secure admission pro hac vice in Arizona

to provide the services authorized in the preceding paragraph by complying with the requirements of Rule 39 of these rules. A lawyer who has been issued a Registration Certificate under this rule may provide services under Rule 38(d) without securing admission pro hac vice.

A lawyer serving as in-house counsel in Arizona who fails to register pursuant to the provisions of this rule shall be ineligible for admission pro hac vice in Arizona, and may be referred by the State Bar of Arizona to the Bar admission and/or disciplinary regulatory authority in any jurisdiction in which that lawyer has been admitted to practice law.

(10) Subsequent Admission. If an attorney registered under this rule is subsequently admitted to the practice of law in Arizona, that attorney's in-house counsel registration shall be superseded by the Arizona license to practice law.

(b) Foreign Legal Consultant.

(1) General Statement and Eligibility. A "foreign legal consultant" is a person who is admitted to practice and is in good standing as an attorney or counselor at law or the equivalent in a foreign country and has been issued a certificate of registration as a foreign legal consultant. To be issued a certificate of registration as a foreign legal consultant, an applicant must:

(A) have been admitted to practice and have been in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education as an attorney or counselor at law or the equivalent in a foreign country for not less than five years immediately preceding the date of the application; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(B) have engaged in the practice of law in such country or in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country for at least three of the five years immediately preceding the date of the application;

(C) possess the character and fitness required of all applicants for admission to the practice of law in Arizona;

(D) intend to practice as a registered foreign legal consultant in Arizona and to maintain an office in Arizona for that purpose; and

(E) possess the necessary documentation evidencing compliance with the immigration laws of the United States;

(2) Filing Requirements. An applicant must file an application for foreign legal consultant registration with the Committee on Character and Fitness on a form supplied by the Committee. An application must include all of the following:

(A) an application fee as established by the Supreme Court;

(B) a character report and character investigation fee as established by the Supreme Court;

(C) a certificate from the professional body or public authority having jurisdiction over professional discipline in each foreign county in which the applicant is admitted to practice, certifying the applicant's admission to practice, date of admission and good standing as an attorney or counselor at law or the equivalent;

(D) a letter of recommendation from one of the members of the executive body of each professional body or public authority referenced in (2)(C) or from one of the judge of the highest law court or court of original jurisdiction in each foreign county in which the applicant is admitted;

(E) duly authenticated English translations of the certificate required by (2)(C) and the letter of recommendation required by (2)(D), if they are not in English; and

(F) other evidence of applicant's educational and professional qualifications, character and fitness, and satisfaction of the conditions of (1) of this rule as the Committee on Character and Fitness may require. If strict compliance with the provisions of (C) of this rule would cause the applicant unnecessary hardship or upon a showing of exceptional professional qualifications to practice as a foreign legal consultant, the Committee may waive or vary the application of those provisions and permit the applicant to furnish other evidence.

(3) Scope of Authority.

(A) Scope of Practice. A person registered to practice as a foreign legal consultant under this rule may render legal services in Arizona subject, however, to the limitations that he or she shall not:

(i) appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state other than upon admission pro hac vice pursuant to Rule 39;

(ii) prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States of America;

(iii) prepare any will or trust instrument affecting the disposition on death of any property located in the United States of America and owned by a resident thereof;

(iv) prepare any instrument relating to the administration of a decedent's estate in the United States of America;

(v) prepare any instrument in respect to marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of a resident;

(vi) render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise), except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render professional legal advice in this state;

(vii) in any way hold himself or herself out as a member of the state bar.

(B) Title of "Legal Consultant". A person registered as a foreign legal consultant under this rule shall at all times use the title "legal consultant", which shall be used in conjunction with the name of the foreign country of his or her admission to practice, and shall not carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

(i) his or her own name;

(ii) the name of his or her law firm;

(iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country.

(4) Rights and Obligations. A foreign legal consultant registered under this rule shall not be a member of

the state bar but shall be considered an affiliate of the state bar subject to the same conditions and requirements as apply to a member of the state bar under the Rules of the Supreme Court governing members of the state bar, insofar as conditions and requirements are consistent with the provisions of this rule, and shall:

(A) have the right, in the same manner and to the same extent as members of the state bar, to:

(i) employ one or more members of the state bar;

(ii) be employed by one or more members of the state bar or by any partnership or professional corporation that includes members of the state bar or that maintains an office in this state; or

(iii) be a partner in any partnership or shareholder in any professional corporation that includes members of the state bar or that maintains an office in this state;

(B) enjoy and be subject to all rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges in the same manner and to the same extent as members of the state bar; and

(C) within one year after receiving a certificate of registration, a foreign legal consultant shall complete the state bar course on professionalism, or an equivalent course on the principles of professionalism approved or licensed by the Board of Governors of the State Bar of Arizona for this purpose.

(5) Discipline and Disability Jurisdiction. A person registered as a foreign legal consultant under this rule shall be subject to professional discipline and disability proceedings in the same manner and to the same extent as members of the state bar.

(6) Termination of Registration. If the Supreme Court determines that a person registered as a foreign legal consultant under this rule no longer meets the

conditions for registration, it may summarily terminate the foreign legal consultant's registration. Upon termination of the registration, the person shall immediately cease acting as a foreign legal consultant, notify in writing all clients in pending matters, and opposing counsel in pending matters, of the termination of the person's authority to act as a foreign legal consultant, and take all necessary steps to protect the interests of clients.

(7) Registration and Fees. A person registered as a foreign legal consultant must renew his or her registration and pay a renewal fee set the Supreme Court on or before February 1 of each year.

(8) Registration Number. A person registered as a foreign legal consultant shall be assigned a registration number, which will be used to identify that person's registration status in Arizona. Any pleading signed by the foreign legal consultant must include the person's registration number.

(9) Subsequent Attorney Admission. If a person registered as a foreign legal consultant in Arizona is subsequently admitted to the practice of law in Arizona, that person's foreign legal consultant registration will be superseded by the Arizona license to practice law.

(c) Law Professor Certification.

(1) General Statement and Eligibility. The Supreme Court may certify a law professor who has been admitted to practice law in another jurisdiction in the United States to practice law in Arizona if all the following conditions are met:

(A) the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of the applicant's graduation;

(B) the applicant is employed full-time as a faculty member at a law school in Arizona which is provisionally or fully approved by the American Bar Association;

(C) the applicant is a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education of the bar of all courts and jurisdictions in which the applicant is admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(D) the applicant is not currently subject to an order of attorney discipline or the subject of a pending formal disciplinary or disability proceeding in any jurisdiction; and

(E) the applicant possesses the character and fitness required of all applicants for admission to the practice of law in Arizona.

(2) Filing Requirements. An applicant must submit an application for law professor certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include all of the following:

(A) an application fee as established by the Supreme Court;

(B) a character report and character investigation fee as established by the Supreme Court;

(C) a certification of employment by the law school;

(D) a certificate of good standing from all courts and jurisdictions in which the applicant is admitted to practice; and

(E) evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).

(3) Certification of Full-time and Clinical Law Professors.

(A) Full-time Law Professors. If the Committee determines that the full-time law professor possesses the character and fitness required of other applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The applicant may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney will be sent by the Clerk to the Chief Bar Counsel.

(B) Clinical Law Professors. A law professor providing clinical instruction to law students is authorized to practice law in connection with the supervision of a clinical law program at the law school while the application for certification is pending before the Committee, provided that the clinical law professor:

(i) has first submitted an application for law professor certification deemed complete by the Committee;

(ii) is supervised by an attorney licensed to practice in Arizona, and discloses the name, address, and membership status of that attorney;

(iii) affirmatively states in all written communications with the public and clients the following language: "Practice temporarily authorized pending certification under Rule 38(c). Supervision by [name of attorney], a member of the State Bar of Arizona."

If the Committee determines that the clinical law professor possesses the character and fitness required of other applicants for admission, it shall recommend to the Court the applicant's certification to practice law. A copy of the order certifying the attorney will be sent by the Clerk to the Chief Bar Counsel.

(4) Scope of Authority. Except as provided in this rule, an attorney certified under this rule shall be entitled to all rights and privileges and subject to all duties, obligations, and responsibilities applicable to licensed Arizona attorneys for the period of authorized practice.

(5) Discipline and Disability Jurisdiction. An attorney certified under this rule shall be subject to the Arizona Rules of Professional Conduct and attorney discipline and disability proceedings in the same manner and to the same extent as members of the state bar.

(6) Termination of Certification. Certification under this rule will automatically terminate when the attorney:

(A) no longer holds full-time status as a law professor at the Arizona law school; or

(B) is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted.

The attorney admitted under this rule must notify the State Bar of any such change of status within thirty days of the change.

(7) Action Required after Termination of Certification Upon termination of certification under subsection 5, within thirty days the attorney must:

(A) notify in writing all clients in pending matters, and co-counsel and opposing counsel in pending litigation, of the termination of the attorney's authority to practice law in Arizona;

(B) decline any new representation that would require the attorney to be admitted to practice in Arizona; and

(C) take all other necessary steps to protect the interests of clients.

(8) Registration, Fees & CLE. An attorney certified under this rule must pay annual registration fees as required under Rule 32 and comply with mandatory legal education requirements under Rule 45.

(9) Registration Number. An attorney certified under this rule shall be assigned a registration number, which shall be used to identify that attorney's status in Arizona in accordance with applicable rules of procedure.

(10) Subsequent Attorney Admission. If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, the attorney's law professor certification will be superseded by the Arizona license to practice law.

(d) Approved Legal Services Organizations and Certification of Pro Bono Counsel.

(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.

(A) Filing Requirements. To qualify as an approved legal services organization, an entity must first file a petition with the Clerk of the Arizona Supreme Court, and a copy of the petition with the Chief Bar Counsel of the State Bar of Arizona. The petition must contain the following information:

(i) A statement that it does not accept fees for services rendered to its clients;

(ii) An explanation of the structure of the organization;

(iii) Disclosure of the major sources of funds used by the organization;

(iv) The criteria used to determine potential clients' eligibility for legal and non-legal services performed by the organization;

(v) A description of the types of legal services provided by the organization;

(vi) The names of all attorneys who are employed by the organization, or who regularly or periodically provide volunteer legal services for clients under the auspices and supervision of the organization; and

(vii) The existence and extent of malpractice insurance that will cover attorneys authorized to practice under Rule 38(d)(2).

(B) State Bar Comment. The State Bar of Arizona, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the petition with the Clerk.

(C) Annual Notice to Court. On or before December 31 of each year, the organization shall file a notice with the Clerk and a copy with the Chief Bar Counsel of the State Bar of Arizona, providing updated information, including a current list of employed and volunteer lawyers certified under this rule, and 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. The State Bar, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the organization's annual notice with the Clerk.

(D) Scope of Authority. A legal services organization is not approved until an administrative order confirming such approval is entered by the Court. A copy of the order approving the legal services organization and/or certifying the employed or volunteer pro bono lawyers listed by the legal services organization, will be sent by the Clerk to the Chief Bar Counsel.

(E) Termination of Authorization. In the event of non-compliance with these provisions, the Court sua sponte, or on application by the State Bar, may order the legal services organization to show cause as to whether its approved status, and the pro bono certification of lawyers working under its auspices and supervision, should be revoked.

(2) Certification of Pro Bono Counsel.

(A) General Statement. The Supreme Court may certify attorneys not otherwise authorized to practice law in Arizona to provide pro bono legal services under the auspices of a legal services organization approved under Rule 38(d)(1). "Pro bono services" are civil legal services provided without charge to low income clients

(B) Eligibility. To be certified, the attorney must be one of the following:

(i) An attorney, including an inactive or retired attorney, admitted to practice in Arizona who:

(a) Has practiced law for at least five years, but is now on inactive or retired status;

(b) Is a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education of the bar of all courts and jurisdictions in which he or she has been admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(c) Has not been disciplined for professional misconduct during the last five years, and has no pending disciplinary or disability proceeding; and

(d) Limits his or her practice to acting as pro bono counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or

(ii) An out of state attorney domiciled in Arizona but not admitted to practice law in Arizona, who:

(a) Has been licensed to practice law for at least five years and is on active, inactive or equivalent status in another jurisdiction;

(b) Is a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education of the bar of all courts and jurisdictions in which he or she has been admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(c) Has not been disciplined for professional misconduct during the last five years and has no pending formal disciplinary or disability proceeding;

(d) Has successfully completed the course on Arizona law described in Rule 34(j);

(e) Has read and agrees to be subject to the Arizona Rules of Professional Conduct; and

(f) Limits his or her practice to acting as pro bono counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or

(iii) An attorney, either domiciled in Arizona or outside Arizona, who is employed part-time or full-time by an approved legal services organization in this state, and who:

(a) Has been licensed to practice law for at least two years, holds an active license to practice law in another jurisdiction in the United States, and is a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education of the bar of all courts or jurisdictions in which he or she is admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(b) Has not been disciplined for professional misconduct in the last five years and has no pending formal disciplinary or disability proceeding;

(c) Has successfully completed the course on Arizona law described in Rule 34(j);

(d) Has read and agrees to be subject to the Arizona

Rules of Professional Conduct; and

(e) Limits his or her practice to acting as pro bono counsel as set forth in this rule; or

(iv) An attorney, not licensed to practice in Arizona, but who is duly registered as In-House Counsel pursuant to Rule 38(a), and provides pro bono legal services under the auspices and supervision of an approved legal services organization, pursuant to Rule 38(d)(1).

(C) Filing Requirements. The approved legal services organization under which a lawyer is to provide pro bono legal services shall file an initial application with the Clerk listing those lawyers it seeks to qualify for pro bono counsel certification. For each such lawyer, the application shall include:

(i) A certificate from each of the highest courts or agencies in the state, territory or district in which the applicant is presently licensed to practice law, documenting that the applicant is a member in good standing of all courts and jurisdictions in which he or she has been admitted to practice, and has no disciplinary history within the last five years or any pending discipline or disability proceeding. An applicant who is registered as In-House Counsel pursuant to Rule 38 (a) shall fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In- House Counsel;

(ii) An avowal by the approved legal services organization that the applicant is employed by or is an unpaid volunteer providing pro bono legal services under the auspices of the organization;

(iii) An avowal from the applicant certifying he or she qualifies under and agrees to the provisions of Rule 38(d)(2)(B).

(D) Scope of Authority. An attorney certified and registered under this rule has the authority to act as pro bono counsel for clients as defined in this rule. The attorney may not act as counsel for a client until certified under this rule by order of the Court.

(E) Recovery of Attorneys' Fees and Costs. This rule does not preclude an approved legal services organization from receiving court-awarded attorneys' fees and costs for representation provided by certified pro bono counsel. Certified volunteer pro bono counsel may be reimbursed for recoverable costs, but may not seek or collect attorneys' fees incurred in representing a pro bono client.

(F) Discipline and Disability Jurisdiction. An attorney certified under this rule is subject to the Arizona Rules of Professional Conduct. In addition to the proceedings and forms of discipline identified in those rules, the attorney may also be enjoined from further practice of law in Arizona.

(G) Termination of Certification. Certification under this rule shall automatically terminate when:

(i) An attorney employed by an approved legal services organization ceases working for that organization and is not employed by another approved legal services organization;

(ii) The approved legal services organization with which the attorney is associated fails to file the annual supplemental statement required in Rule 38(d)(1)(C), or fails to identify the attorney in that filing;

(iii) The attorney is suspended or disbarred or placed on disability inactive status in any jurisdiction, court or agency before which the attorney is admitted;

(iv) The attorney is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter; or

(v) The attorney fails to complete the dues statement or pay the prior year's attorney registration fees as required in Rule 38(d)(2)(I)(i) or (ii).

(H) Notice of Change of Status. The approved legal services organization shall notify the Clerk of the Arizona Supreme Court and the Chief Bar Counsel of the State Bar of Arizona in writing of any change of status described in Rule 38(d)(2)(G) within 28 days of such change.

(I) Registration, Fees and CLE.

(i) An otherwise retired or inactive attorney certified under this rule shall not be required to pay an annual registration fee if the attorney has provided twenty-five (25) hours of pro bono legal services under this rule within the prior twelve-month period. To be exempt from paying an annual registration fee, the attorney shall complete a dues statement provided by the State Bar of Arizona on or before February 1, identifying the approved legal services organization(s), as described in this rule, for which the attorney has volunteered in the prior twelve-month period, and avowing that he or she has provided twenty-five (25) hours of pro bono services during that period and remains qualified for such waiver and for continuing certification as pro bono counsel under this rule.

(ii) An attorney who has not provided at least twenty-five (25) hours of pro bono legal services under this rule within the prior twelve-month period but who wishes to remain certified as pro bono counsel must pay the registration fee that was applicable in the prior calendar year for registered inactive or retired attorneys, as appropriate, pursuant to the fee schedule established by the Court.

(iii) Failure of an attorney certified under this rule to complete the State Bar's dues statement, as described above, or to pay the prior year's inactive or retired attorney registration fees by February 1 of each year, shall automatically terminate that lawyer's status as certified pro bono counsel and result in suspension of the attorney's Arizona license, if applicable.

(iv) Attorneys directly employed by an approved legal services organization and licensed volunteer attorneys in active practice_must comply with the Mandatory Continuing Legal Education requirements of Rule 45. Retired and inactive lawyers certified as pro bono counsel are exempt from Rule 45 CLE reporting requirements.

(J) Certification Number. An attorney certified under this rule shall be assigned a certification number by the State Bar of Arizona, which shall be used to identify that attorney's authorization to practice in Arizona. Any pleading signed by an attorney authorized under this rule shall include the attorney's certification number. Whenever an initial appearance is made in court without a written pleading, the attorney shall advise the court of the attorney's certification number.

(K) Subsequent Attorney Admission. If an Arizona attorney certified under this rule subsequently changes his or her status to active, that attorney's pro bono counsel certification shall be terminated. If an attorney licensed in another jurisdiction but certified to practice in Arizona under this rule is subsequently admitted to the practice of law in Arizona, that attorney's pro bono counsel certification shall be superseded by the Arizona license to practice law.

Arizona Supreme Court Rule 39 — Temporary Authorizations to Practice Law (as amended effective January 1, 2025)

(a) Pro Hac Vice.

(1) General Statement and Eligibility. An attorney who is not a member of the State Bar of Arizona but is currently a member in good standing of the bar of another state or non-U.S. jurisdiction, and eligible to practice before the highest court in any state, territory or insular possession of the United States or foreign jurisdiction (hereinafter called a non-member attorney) may appear as counsel pro hac vice in any case before any state or local court, board or administrative agency in the State of Arizona upon compliance with this rule:

(2) In order to appear as counsel in any matter pending before a court, board, or administrative agency in the State of Arizona, a non-member attorney shall:

(A) File with the State Bar of Arizona an original and one copy of a verified application; and the verified application required by this rule shall be on a form approved by the Arizona Supreme Court and available at the clerk of the court, board, or administrative agency where such cause is pending.

(B) File with the State Bar of Arizona a certificate from each state bar or from the clerk of the highest admitting court of each state, territory or insular possession of the United States, or foreign jurisdiction, in which the non-member attorney has been admitted to practice law certifying the non-member attorney's date of admission to such jurisdiction and the current status of the non-member attorney's membership or eligibility to practice therein.

(C) Pay to the State Bar of Arizona a non-refundable application fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such application is filed plus an additional assessment set by the Arizona Supreme Court for the Client Protection Fund, with the following exceptions:

(i) Not more than one application fee may be required per non-member attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the non-member attorney.

(ii) The application fee shall be waived (1) for Judge Advocate General's Corps military attorneys practicing before the Military Trial Court of the State of Arizona or the Arizona Court of Military Appeals and (2) to permit pro bono representation of an indigent client or clients. An attorney seeking a fee waiver to provide pro bono representation of an indigent client or clients shall include in the application a verification that all clients represented in the action are indigent and that no attorney fee shall be paid by the client. "Indigent" is defined as those individuals whose gross income is at or below 125% of the federal poverty guidelines, as calculated in conformity with the eligibility requirements for Legal Services Corporation grantees, currently codified at 45 C.F.R. Section 1611.

(D) Upon receipt of the verified application and fee from the non-member attorney as described above, the State Bar of Arizona shall issue to local counsel a Notice of Receipt of Complete Application that states: (1) whether the non-member attorney has previously made any application or motion pursuant to this rule within the preceding three years; (2) the date of any such application or motion; and (3) whether the application or motion was granted or denied by the court or administrative agency. The State Bar of Arizona Notice shall include as exhibits: (1) the original verified application and (2) the original certificate(s) of good standing. The State Bar shall retain copies of verified applications, certificates of good standing and orders granting, denying or revoking applications to appear pro hac vice for three (3) years.

(E) Local counsel shall file a motion to associate counsel pro hac vice with the court, board, or administrative agency where the cause is pending, together with proof of service on all parties in accordance with Arizona Rules of Civil Procedure. The motion to associate counsel pro hac vice shall include:

(i) the original verified application as an exhibit;

(ii) the original certificates of good standing as an exhibit;

(iii) the State Bar of Arizona Notice as an exhibit; and

(iv) a proposed order granting or denying the motion.

(F) Local counsel shall mail a copy of each order granting or denying the motion as entered by the court, board, or administrative agency to the State Bar of Arizona.

(3) Scope of Authority. A non-member attorney may not appear pro hac vice before any court, board or administrative agency of this state unless the non-member attorney has associated in that cause an attorney who is a member in good standing of the State Bar of Arizona (hereinafter called local counsel). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with a non-member attorney in a particular cause shall accept joint responsibility with the non-member

attorney to the client, to opposing parties and counsel, and to the court, board, or administrative agency in that particular cause.

(4) Discretion. The granting or denial of a motion to associate counsel pro hac vice pursuant to this rule by the court, board, or administrative agency is discretionary. The order granting or denying the motion to associate counsel pro hac vice shall be entered by the court, board, or administrative agency no later than 20 days (exclusive of weekends and holidays) after the filing of such motion. A non-member attorney shall make no appearance in a cause until the court, board, or administrative agency where the cause is pending enters the order granting the motion to associate counsel pro hac vice. The order granting pro hac vice status shall be valid for a period of one year from the date of entry, and shall be renewed for subsequent one year periods upon compliance with renewal procedures as specified herein.

(5) Disciplinary Jurisdiction of the State Bar of Arizona. As provided in Rule 46(b), Rules of the Supreme Court, a non-member attorney admitted pro hac vice pursuant to these rules shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar of Arizona.

(6) Termination of Authorization. The court, board, or administrative agency may revoke the authority of a non-member attorney to make continued appearances pursuant to this rule. Absent special circumstances, repeated appearances by any person pursuant to this rule may be the cause for denial of the motion to associate counsel pro hac vice. Such special circumstances

may include, but are not limited to, the following: (1) a showing that the cause involves a complex area of law in which the nonmember attorney possesses a special expertise, or (2) a lack of local counsel with expertise in the area of law involved in the cause.

(7) Transfer. The non-member attorney shall be deemed admitted in the event venue in such action is transferred to another county or court or is appealed; provided, however, that the court having jurisdiction over such transferred or appealed cause may revoke the authority of the non-member attorney to appear pro hac vice.

(8) Continuing Duties to Advise of Changes in Status. A non-member attorney admitted pro hac vice shall have the continuing obligation during the period of such admission to promptly advise the State Bar of Arizona of a disposition made of pending charges or the institution of any new disciplinary proceedings or investigations. The State Bar of Arizona shall then advise any court, board, or administrative agency where the non-member attorney has been admitted pro hac vice of any such information. A non-member attorney shall promptly advise the State Bar of Arizona if permission to appear pro hac vice pursuant to this rule is revoked by any court, board, or administrative agency.

(9) Renewal of Application and Fees. On or before each anniversary date of the filing of the verified application with the State Bar of Arizona, local counsel must certify to the State Bar of Arizona whether (a) the non-member attorney continues to act as counsel in the cause; or (b) such cause has been adjudicated to a final conclusion or is otherwise concluded. Any nonmember attorney who continues to act as counsel in the cause shall remit to the State Bar of Arizona on or before each anniversary date an assessment set

by the Arizona Supreme Court for the Client Protection Fund and a fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such renewal is sought, unless the non-member attorney is waived under paragraph (c)(1)(B)(ii) of this rule as a Judge Advocate General's Corps military attorney or as an attorney providing pro bono representation of an indigent client.

(10) Failure to Renew. Any non-member attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fees set forth in paragraph (h) of this rule shall be suspended from appearance in any cause upon the expiration of a period of thirty days from the anniversary date. The executive director of the State Bar of Arizona shall notify the non-member attorney and local counsel of the suspension and shall file a certified copy of the notice with the court, board or administrative agency where the cause is filed. The non-member attorney may be reinstated upon the payment of fees set forth in paragraph (h) of this rule and a $50 late penalty. Upon payment of all accrued fees and late penalty, the executive director shall reinstate the non-member attorney and shall certify such reinstatement to the court, board, or administrative agency where the cause is filed.

(11) Annual Reporting. The State Bar of Arizona shall prepare an annual report which shall list: (a) all applications filed pursuant to this rule during the preceding twelve months; (b) the names of all applicants; and (c) whether the application was granted or denied. The report shall be available for inspection at the offices of the State Bar of Arizona and shall be provided to the Supreme Court.

(12) Disposition of Fees. Fifteen percent of the application fees paid pursuant to this rule shall be de-

posited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in Rule 38(d).

(13) Exception for Indian Child Welfare Cases. A non-member attorney is not required to associate with local counsel under this rule or pay the fees established by this rule if the applicant establishes to the satisfaction of the State Bar of Arizona that:

(A) the non-member attorney seeks to appear in an Arizona court for the limited purpose of participating in a child custody proceeding as defined by 25 U.S.C. § 1903, pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq.;

(B) the non-member attorney represents a federally recognized Indian tribe as defined by 25 U.S.C. § 1903(8) of the Rules of Procedure for Juvenile Court; and

(C) the Indian child's tribe has submitted a pleading to the court seeking to intervene and participate in the state court proceeding and affirming the child's membership or eligibility for membership under tribal law.

The non-member attorney shall file a motion to appear pro hac vice with the court in which the proceeding is pending and shall perform the duties required to be performed by associate counsel under this rule. Appearance in child welfare proceedings under this paragraph constitutes a special circumstance for the purposes of the restriction in paragraph (6) that a motion may be denied because of repeated appearances.

.... (d) Military Spouse Certification.

(1) General Statement and Eligibility. Due to the unique mobility requirements of military families who support the defense of our nation, the Court may

certify an attorney who is a spouse of a member of the United States Uniformed Services ("service member") stationed within Arizona to practice law under the terms of this rule. An attorney ("applicant") who is not a member of the State Bar of Arizona who meets the requirements of (A) through (J) of this paragraph (d)(1) may, upon verified application, be admitted to the temporary practice of law in this jurisdiction. The applicant must:

(A) establish that the applicant is currently an active member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education in at least one jurisdiction where admitted in the United States or territory and is a member in good standing in all jurisdictions where admitted; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

(B) hold a juris doctor degree from a law school provisionally or fully approved by the Council of the Section of Legal Education and Admissions of the American Bar Association at the time of graduation;

(C) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(D) submit character investigation information, in a manner established by the Court, including all required supporting documents, and establish that the applicant possesses the character and fitness to practice law in this jurisdiction;

(E) submit evidence that the applicant is a dependent spouse of a service member of the United States Uniformed Services; that the service member is on full-time, active duty pursuant to military orders in Arizona; and that the applicant is residing in Arizona due to the service member's full-time, active duty pursuant to military orders in this state;

(F) submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;

(G) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j);

(H) not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule;

(I) not have been previously denied admission to the practice of law in Arizona; and

(J) agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.

(2) Filing Requirements and Certification.

(A) Application. An applicant must file a verified application for military spouse certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include the documentation necessary to establish the requirements of (A) through (J) of this rule. At the time of submitting the verified application, the applicant must pay an application fee as set by the Court.

(B) Certification by Court. If the Committee determines that the applicant has met the requirements of this rule and possesses the character and fitness required of all applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The attorney may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney for temporary admission will be sent by the Clerk to the Chief Bar Counsel.

(C) Duration and Renewal. A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5). An attorney admitted under this rule may annually renew a temporary admission by filing a written request for renewal and paying a registration fee.

(3) Scope of Authority. Except as provided in this rule, an attorney temporarily admitted under this rule shall be entitled to all rights and privileges and subject to all duties obligations and responsibilities otherwise applicable to active members of the State Bar for the period of authorized practice.

(A) Association of Local Counsel. No attorney temporarily admitted under this rule may appear before any court, board, or administrative agency of this state unless the attorney has associated in that cause an attorney (local counsel) who is a member in good standing of the State Bar of Arizona. The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney temporarily admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

(B) Supervision of local counsel. If the attorney temporarily admitted under this rule has not engaged in the active practice of law for at least five years cumulatively, the attorney shall be supervised by local counsel as defined above, who will be responsible to the court, the bar, the Court, and the client for all services the temporarily admitted attorney provides pursuant to this rule.

(4) Discipline and Disability Jurisdiction. An attorney temporarily admitted under this rule shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the state bar.

(5) Termination of Certification.

(A) Events triggering termination. A temporary admission shall terminate, and an attorney shall cease the practice of law in Arizona pursuant to that admission, unless otherwise authorized by these rules, 30 days after any of the following events:

(i) the service member's separation or retirement from the United States Uniformed Services;

(ii) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in Arizona as provided in this rule;

(iii) the attorney's permanent relocation outside the state of Arizona for reasons other than the service member's relocation;

(iv) the attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;

(v) the attorney's failure to meet the annual licensing requirements for an active member of the State Bar of Arizona;

(vi) the attorney's request;

(vii) the attorney's admission to practice law in Arizona under any other admissions rule;

(viii) the attorney's failure to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;

(ix) the attorney's denial of admission to the practice of law in Arizona for violating ethical rules; or

(x) notice by the Court at any time, provided that the Clerk of the Court shall mail a copy of the notice of termination to the attorney and associated local counsel.

(B) Notice of termination to State Bar. An attorney whose temporary admission is terminated shall provide written notice to the State Bar of Arizona within thirty (30) days of the terminating event.

(C) Notice to courts and clients. At least sixty (60) days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:

(i) file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and

(ii) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

(6) Registration, Fees & CLE. An attorney certified under this rule who seeks to renew the certification shall be required to pay a registration fee. No later than six months following the attorney's temporary admission, the attorney shall certify to the Court completion of at least fifteen hours of continuing legal education on Arizona practice, procedure, and ethics. The attorney shall also comply with Rule 45 and, on or before September 15 of each year, certify completion of at least fifteen (15) hours of such continuing legal education during each year for which a temporary admission is renewed.

(7) Registration Number. An attorney certified under this rule shall be assigned a registration number, which shall be used to identify the attorney's registration status in Arizona as required by applicable rules of procedure.

(8) Subsequent Attorney Admission. If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, that attorney's military spouse certification will be superseded by the Arizona license to practice law.

D. Ariz. LRCiv 83.1 — Attorneys

(a) Admission to the Bar of this Court. Admission to and continuing membership in the bar of this Court is limited to attorneys who are active members in good standing of the State Bar of Arizona.

Attorneys may be admitted to practice in this District upon application and motion made in their behalf by a member of the bar of this Court.

Every applicant must first file with the Clerk a statement on a form provided by the Clerk setting out the applicant's place of birth, principal office address and city and state of principal residence, the courts in which the applicant has been admitted to practice, the respective dates of admissions to those courts, whether the applicant is active and in good standing in each, and whether the applicant has been or is being subjected to any disciplinary proceedings.

Motions for admission will be entertained upon the convening of the Court at the call of the law and motion calendar. The applicant must be personally present at the time and, if the motion is granted, will be admitted upon being administered the following oath by the Clerk, Magistrate Judge, or a District Judge:

"I solemnly swear (or affirm) that I will support the Constitution of the United States; that I will bear true faith and allegiance to the Government of the United States; that I will maintain the respect due to the courts of justice and judicial officers; and that I will demean myself as an attorney, counselor, and solicitor of this Court uprightly."

Thereafter, before a certificate of admission issues, the applicant must pay an admission fee to the Clerk, U.S. District Court. The amount of the fee is available on the District Court's website.

(b) Practice in this Court. Except as herein otherwise provided, only members of the bar of this Court may practice in this District.

(1) U.S. Government Attorneys. Any attorney representing the United States Government in an official capacity, or who is employed by the office of the Federal Public Defender in an official capacity, and is admitted to practice in another U.S. District Court may practice in this District in any matter in which the attorney is employed or retained by the United States during such period of federal service. Attorneys so permitted to practice in this Court are subject to the jurisdiction

of this Court to the same extent as members of the bar of this Court.

(2) Pro Hac Vice. An attorney who is admitted to practice in another U.S. District Court, and who has been retained to appear in this Court may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible to practice pursuant to this subparagraph (b)(2) if any one or more of the following apply: (i) the attorney resides in Arizona, (ii) the attorney is regularly employed in Arizona, or (iii) the attorney is regularly engaged in the practice of law in Arizona. The pro hac vice application must be presented to the Clerk and must state under penalty of perjury (i) the attorney's principal office address and city and state of principal residence as well as current telephone number, facsimile number and electronic mailing address, if any, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) that the attorney is in good standing and eligible to practice in those courts, (iv) that the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted. The pro hac vice application must also be accompanied by payment of a pro hac vice fee to the Clerk, U.S. District Court and a current, original certificate of good standing from a federal court. The amount of the fee is available on the District Court's

website. If the pro hac vice application is denied, the Court may refund any or all of the fee paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the Court to the same extent as a member of the bar of this Court. Attorneys admitted to practice pro hac vice must comply with the Rules of Practice and Procedure of the United States District Court for the District of Arizona.

(3) Tribal Attorneys. An attorney who represents a tribal government entity in a full time official capacity may apply to appear pro hac vice under subparagraph 2 above in any matter in which the attorney is employed or retained by the tribal government entity during such period of tribal service notwithstanding the attorney's residence in, regular employment in, or regular practice in Arizona.

APPENDIX E

Rule 28(j) Letters and Attachments Submitted Below United States Court of Appeals for the Ninth Circuit, No. 25-3551

E-1: Notice of Supplemental Authority (SCRA; DOJ Notification Letter), ECF 31 (Jan. 16, 2026), with Exhibit A

E-2: Notice of Supplemental Authority (Executive Order 14173), ECF 43 (Apr. 24, 2026), with Exhibit A

E-3: Rule 28(j) Letter (FTC/DOJ Tennessee Letter; EO 14279; Texas, Florida, Alabama Orders), ECF 51 (May 8, 2026)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LAWYERS FOR FAIR RECIPROCAL ADMISSION,
Plaintiff-Appellant, v.

ANN A. SCOTT TIMMER, *Defendants-Appellees*.
Ninth Circuit Docket No. 25-3551

APPELLANT'S NOTICE OF SUPPLEMENTAL AUTHORITY PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 28(j) IN REGARD TO APPELLANT'S ARGUMENTS IN THIS APPEAL

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellant *Lawyers for Fair Reciprocal Admission* respectfully notifies the Court of supplemental authority that has become available since briefing was completed.

On December 23, 2024, Congress enacted significant amendments to the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. § 4025a, removing the prior exception for attorney licenses. The updated law now mandates that all states recognize professional licenses—including law licenses—held by servicemembers and their spouses who relocate due to military orders. Pub. L. 118-159 (Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025).

On December 22, 2025, the U.S. Department of Justice Civil Rights Division issued an official notification letter to all state licensing authorities explaining the updated SCRA requirements. The DOJ letter emphasizes that states “shall” consider covered licenses “valid for the scope of practice in the State of the new residence” and that “anything demanded in excess of the requirements detailed in the SCRA is illegal.” The DOJ further clarified that licensing authorities cannot require transcripts, test scores, or impose active-use requirements on SCRA applicants. (Attached as Exhibit A).

This supplemental authority is directly relevant to this appeal for the following reasons: First, the updated SCRA establishes a federal statutory mandate for attorney license portability that is fundamentally incompatible with Arizona Rule 34’s categorical denial of admission to attorneys from eleven states based solely on jurisdictional origin.

Second, the federal law demonstrates current congressional policy rejecting class-based discrimination in professional licensing in favor of recognition based on individual qualifications and good standing— directly supporting Appellant’s arguments under *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023).

Third, the SCRA amendments and DOJ guidance provide additional grounds for finding Rule 34 unconstitutional or preempted under the Supremacy Clause, as federal law now requires states to recognize out-of-state attorney licenses for military-connected individuals while Rule 34 categorically excludes qualified attorneys based solely on their state of licensure.

Fourth, the DOJ’s enforcement position—that states lack discretion to impose requirements beyond those specified in the SCRA—reinforces Appellant’s Full Faith and Credit arguments under 28 U.S.C. § 1738.

The timing of this law is significant: it became effective December 23, 2024, after the district court's dismissal in this case, and the DOJ issued interpretive guidance on December 22, 2025, demonstrating the law's immediate applicability to state bar admission practices.

Dated: January 16, 2026 Respectfully submitted,

/s/ Joseph Robert Giannini
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on January 16, 2026, and that service will be accomplished electronically to all registered counsel.

/s/ Joseph Robert Giannini
Joseph Robert Giannini

U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General
Washington, D.C. 20530

NOTIFICATION LETTER

ATTENTION: State Licensing Authorities
DATE: December 22, 2025
SUBJECT: **Update to Professional License Portability for Servicemembers and Their Spouses**

The Department of Justice's Civil Rights Division is issuing this letter to notify State Licensing Authorities of recent updates to the Servicemembers Civil Relief Act (SCRA). On December 23, 2024, Congress made significant changes to the SCRA provision that allows servicemembers and their spouses to have their professional licenses and certificates recognized in different jurisdictions when they must relocate due to military orders.[1]We request that you carefully review the changes described in this letter, evaluate your practices to ensure compliance with this updated federal law, and help us tackle the issue of military spousal unemployment.[2]

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[1] On December 23, 2024, the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025 (H.R. 5009) became law. This law rewrote the section of the SCRA on the portability of professional licenses, including by removing the exception for attorneys. *See* 50 U.S.C. § 4025a; Pub. L. 118-159.

[2] This notification letter is intended to inform State Licensing Authorities about the enactment of updates to the SCRA. The contents of this document do not have the force and effect of law and are not meant to bind the public or State Licensing Authorities in any way or to create any enforceable legal rights.

Introduction

Military families continue to face challenges with frequent moves, child-care, and interruptions or barriers to employment. They often relocate through a process known as "Permanent Change of Station" (PCS) moves. It can be hard to remain employed while constantly and, at times, suddenly moving. According to the 2024 Department of Defense Survey of Active Duty Spouses, the unemployment rate for military spouses who made a PCS move was about 33% higher than spouses who had not made any PCS moves.[3]The unemployment rate for military spouses remains around 20%, far higher than the national average of 4.4%.[4]Spousal unemployment is a leading cause of servicemembers leaving military service and is a significant readiness and retention issue.

License portability is one of the ways that the SCRA works to support military families suffering a loss of economic potential while they serve the country. It takes significant time and money to secure a professional license or certificate. The license portability provision in the SCRA helps secure these educational investments and guards against punishing military families, particularly working spouses, for frequent moves that are outside of their control. With the persistence of military spousal unemployment, license portability remains a critical tool for our military

This notification letter does not determine the outcome in any particular case or set of facts. In any investigation under the SCRA, the Civil Rights Division makes enforcement decisions based on the facts of that particular case.

[3] 2024 Active Duty Spouse Survey (ADSS).

[4] Bureau of Labor Statistics, September 2025 Chart on Civilian Unemployment Rate.

spouses to be able to support their families in the manner of their choosing.

Overview of the Updated Law on Professional License Portability

The updated SCRA provision allows servicemembers and their spouses to use their professional licenses and certificates in certain circumstances when they must relocate due to military orders. For a license to be considered valid in a new location, a servicemember or their spouse must satisfy the following criteria:

1. Have a covered license;
2. move to another State due to military orders; and
3. submit an application to the licensing authority of the new State.[5]

If these three criteria are met, the servicemember or their spouse's covered license or certificate "***shall be considered valid*** for the scope of practice in the State of the new residence."[6]

The following sections break down the specifics of some of these requirements:

What is a covered license?

"The term 'covered license' means a professional license that, with respect to a scope of practice—

(A)is in good standing with the licensing authority that issued such license; (B)has not been revoked or had discipline imposed by any State; (C)does not have an investigation relating to unprofessional conduct pending in any State relating to it; and (D)has

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[5] *See* 50 U.S.C. § 4025a(a).

[6] *See* 50 U.S.C. § 4025a(a) (emphasis added).

not been voluntarily surrendered while under investigation for unprofessional conduct in any State."[7]

What is a State?

"State" is a broad term defined in the SCRA to include a commonwealth, territory, or possession of the United States and the District of Columbia.[8]

What is an application?

A submission by a servicemember or spouse to the new licensing authority that includes the following:

"(1) Proof of military orders …; (2) If the applicant is the spouse of a servicemember, a copy of the marriage certificate; (3)A notarized affidavit affirming, under the penalty of law, that—

(A)the applicant is the person described and identified in the application;

(B)all statements made in the application are true and correct and complete;

(C)the applicant has read and understands the requirements to receive a license, and the scope of practice, of the State of the licensing authority;

(D)the applicant certifies that the applicant meets and shall comply with requirements described in subparagraph (C); and

(E)the applicant is in good standing in all States in which the applicant holds or has held a license."[9]

What are military orders?

The term "military orders", with respect to a servicemember, means official military orders (including orders for separation or retirement), or any notification, certification, or verification from the servicemem-

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[7] *See* 50 U.S.C. § 4025a(f).

[8] *See* 50 U.S.C. § 3911(6).

[9] *See* 50 U.S.C. § 4025a(c).

ber's commanding officer, with respect to the servicemember's current or future military duty status.[10]

Under the updated law, a letter or any written communication from the servicemember's commanding officer indicating a change in the servicemember's duty status satisfies the requirement for proof of military orders. Because the issuance of official military orders can be delayed, a notice from a commanding officer provides a military family with the head start needed to accomplish the myriad tasks that accompany a PCS – from moving to pursuing license portability.

Scope of practice

The term "scope of practice" means the defined parameters of various duties or services that may be provided by an individual under a license.[11]Under the updated law, a covered servicemember or spouse's out-of-state license must be considered valid for the scope of practice in the state of the new residence.

The Updated Law's Impact on Interstate Licensure Compacts

Some States are members of interstate licensure compacts, which allow licensed practitioners to work in other compact-member States without needing a new license or certificate. Under the prior version of the law, servicemembers or spouses that held a license to operate in multiple States pursuant to an interstate licensure compact were able to use SCRA license portability if they were moving to a State that was not covered by their compact.

Under the updated law, servicemembers or spouses

[10] *See* 50 U.S.C. § 4025a(f)(4); 50 U.S.C. § 3955(i)(1).

[11] *See* 50 U.S.C. § 4025a(f)(5).

who hold a covered license to operate in multiple States pursuant to an interstate compact are subject to the requirements of the compact or the applicable provisions of law in the new State and are no longer eligible for portability under the SCRA.[12]

Effective Date of the Updated Law

The SCRA's updated license portability provision, "Portability of Professional Licenses of Servicemembers and their Spouses," went into effect on December 23, 2024. Servicemembers and their spouses who, due to military orders, are in jurisdictions outside the State of the licensing authority that issued their covered license can now apply for portability.

Enforcement Authority for the Updated Law

Congress has provided the Attorney General with enforcement authority under the SCRA, which includes the provision regarding the portability of professional licenses and certificates. Specifically, this authority has been delegated to the Civil Rights Division, and authorizes lawsuits in federal district court against those who engage in (1) a pattern or practice of violations; or (2) violations that raise issues of significant public importance.[13]

The Civil Rights Division is proud of its work enforcing the SCRA and supporting servicemembers and their families. Since 2011, the Justice Department has obtained over $483 million in monetary relief for over 148,000 servicemembers using the SCRA to address improper lease terminations, foreclosures, vehicle repossessions, interest rates, default judgments, and

[12] *See* 50 U.S.C. § 4025a(e).
[13] *See* 50 U.S.C. § 4041(a).

more.

Our Servicemembers and Veterans Initiative and our SCRA enforcement team engage regularly with State and local officials on the SCRA and other statutory protections afforded our servicemembers and their families. We welcome your continued engagement. We also appreciate your efforts to comply with this law and its recent changes, keeping in focus the goal of supporting our military families.

Other Significant Updates

Background checks

A licensing authority that receives an application for portability under the SCRA may conduct a background check of the applicant before recognizing a covered license as valid or issuing a temporary license.[14]

Temporary licenses

If a licensing authority is required to consider a covered license valid under the SCRA but cannot carry out such requirement during the 30 days after receiving an application from a servicemember or spouse, the licensing authority may issue to the applicant a temporary license that confers the same rights, privileges, and responsibilities as a permanent license.[15]

Are any licenses excluded?

The term ”license” means any license, certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in, or represent himself or herself to be a member of, a particular profession.[16]Under the prior version of the

[14] *See* 50 U.S.C. § 4025a(d).
[15] *See* 50 U.S.C. § 4025a(b).
[16] *See* 50 U.S.C. § 4025a(f)(2).

law, licenses to practice law were explicitly excluded from portability under the SCRA. Under the updated law, all professional licenses and certificates, including law licenses, are eligible for portability.

Active use requirement

Under the prior version of the law, there was a requirement that the servicemember or spouse have actively used the covered license during the two years immediately preceding the move in order to be eligible for portability. Under the updated law, there is no longer any requirement that the license have been actively used.[17] If the servicemember or spouse meets the requirements as detailed earlier in this letter, they qualify for portability under the SCRA.

Initial Conversations with Licensing Authorities

In our initial conversations with licensing authorities, we uncovered a few concerning trends. We strongly encourage you to train your public-facing staff about the SCRA. Servicemembers and their spouses report that they are deterred from applying for license portability because they are misdirected by frontline staff. Too often these applicants are sent to a generic renewal or application portal that does not include a pathway for SCRA license

portability. We have found that, even in cases where applicants ask explicitly about SCRA portability, they have been told that no such pathway exists.

As a reminder, following a State-mandated process for licensure does not ensure that you are in compliance with the SCRA. When a servicemember or spouse applies for SCRA license portability, anything

[17] *See* 50 U.S.C. § 4025a.

demanded in excess of the requirements detailed in the SCRA is illegal. For example, the law does not permit requesting transcripts or test scores or meeting active use requirements. The goal of this provision is to recognize that an applicant servicemember or spouse is already fully licensed or certified by another licensing authority in the United States. They are not new applicants who have to meet the same requirements as first-time practitioners. The license portability provision of the SCRA provides its applicants with a unique pathway to continuing their career, different from someone who is relocating to a new State or jurisdiction voluntarily.

As a best practice, we recommend that state licensing authorities issue a new license to the servicemember or spouse who has applied for portability. In the alternative, the State licensing authority should provide the servicemember or spouse with documentation showing that their existing license is valid in the new jurisdiction. This proof of valid licensure can be electronic. This can help ease concerns from insurance providers or employers as the spouses seek employment in your State.

In the fight against military spouse unemployment, speedy processing of a SCRA license portability application can make a huge difference. We strongly encourage you to update your websites, portals, and public-facing materials to help applicants seeking a new license or recognition of their existing license or certificate under the SCRA.

Additional Resources

You can find additional information about the

SCRA, professional licensure, and interstate licensure compacts through the following links:

- *Justice Department's Servicemembers & Veterans Initiative* – www.servicemembers.gov
- *Resource on Licenses Sponsored by the Department of Labor* – License Finder | CareerOneStop
- *Department of Defense Resource on Interstate Licensure Compacts & Other Issues* –

About Defense-State Liaison Office | Military State Policy (militaryonesource.mil)

In addition, you can refer servicemembers and their families seeking information about their rights under this updated law (or any section of the SCRA) to the following resources:

- *Justice Department's Servicemembers & Veterans Initiative* – www.servicemembers.gov
- *Military Legal Assistance* – http://legalassistance.law.af.mil/

If servicemembers or their spouses are not eligible for military legal assistance services, they may request that the Justice Department review their claim by submitting a complaint through https://civilrights.justice.gov/link/4025A.

Conclusion

The SCRA provides important legal protections for our military families who do so much for our country. We remain committed to easing the burdens that our military families face and hope that you will join us in the fight against military spouse unemployment. We greatly appreciate your assistance in safeguarding the rights of our Nation's servicemembers and their families.

Sincerely,

Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LAWYERS FOR FAIR RECIPROCAL ADMISSION, *Plaintiff-Appellant*, v. ANN A. SCOTT TIMMER, *Defendants-Appellees*. Ninth Circuit Docket No.

25-3551

APPELLANT'S NOTICE OF SUPPLEMENTAL AUTHORITY PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 28(j) IN REGARD TO APPELLANT'S ARGUMENTS IN THIS APPEAL

I. Executive Order 14173 and Convergent Federal and State Policy

On January 21, 2025, President Trump signed Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* , 90 Fed. Reg. [___] (Jan. 31, 2025). See Exhibit A. The Order directs all executive departments and agencies to terminate categorical, classification-based preferences and advance "individual initiative, excellence, and hard work" as the governing standard for professional opportunity. It further directs the Attorney General to identify and act against categorical, class-based licensing practices that violate federal civil rights laws.

This authority was promulgated after *NAAMJP v. Berch,* 773 F.3d 1037 (9th Cir. 2014 *)* was decided and is relevant for three reasons. First, Executive Order 14173's individual-merit mandate is fully consistent with Arizona Revised Statutes § 32-4302, which already grants professional license reciprocity based on individual qualifications and good standing — not jurisdictional origin. Arizona's legislature has thus embraced the same framework the Executive Order now commands federally. Arizona Rule 34's categorical denial of bar admission to attorneys from eleven states based solely on state of licensure conflicts with both. Second, the Order reinforces the congressional policy reflected in the December 23, 2024, amendments to the *Servicemembers Civil Relief Act* , 50 U.S.C. § 4025a, brought to this Court's attention in ECF No. 31, which eliminated the attorney-license exception and the active-use requirement in favor of individual qualification. Third, Executive Order 14173, 50 U.S.C. § 4025a, and Arizona § 32-4302 reflect a convergent federal and state policy framework under which professional licensing must be grounded in individual merit — a framework Arizona Rule 34 cannot survive.

II. *Chiles v. Salazar* and the Controlling First Amendment Standard of Review

Chiles v. Salazar , 607 U.S. ___ (March 31, 2026), decided after briefing was complete, is directly controlling authority on the First Amendment standard of review. In an 8-1 decision, the Supreme Court expressly abrogated *Tingley v. Ferguson* , 47 F.4th 1055 (9th Cir. 2022), holding that government ”cannot evade First Amendment scrutiny by relabeling restricted speech as ’conduct,’ ’treatment,’ or a ’therapeutic modality,’” and that the professional licensing context does not reduce constitutional protection. *Chiles* further confirmed that viewpoint-based restrictions constitute

”an egregious form of content discrimination” subject to the most demanding scrutiny, not rational-basis or intermediate review. *Id.*

Dated: April 24. 2026 Respectfully submitted,

/s/ Joseph Robert Giannini
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on [Date], and that service will be accomplished electronically to all registered counsel.

/s/ Joseph Robert Giannini
Joseph Robert Giannini

Administration of Donald J. Trump, 2025

Executive Order 14173—Ending Illegal Discrimination and Restoring Merit-Based Opportunity

January 21, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. Longstanding Federal civil-rights laws protect individual Americans from discrimination based on race, color, religion, sex, or national origin. These civil-rights protections serve as a bedrock supporting equality of opportunity for all Americans. As President, I have a solemn duty to ensure that these laws are enforced for the benefit of all Americans.

Yet today, roughly 60 years after the passage of the Civil Rights Act of 1964, critical and influential institutions of American society, including the Federal Government, major corporations, financial institutions, the medical industry, large commercial airlines, law enforcement agencies, and institutions of higher education have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called ”diversity, equity, and inclusion” (DEI) or ”diversity, equity, inclusion, and accessibility” (DEIA) that can violate the civil-rights laws of this Nation.

Illegal DEI and DEIA policies not only violate the text and spirit of our longstanding Federal civil-rights laws, they also undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system. Hardworking Americans who deserve a shot at the American Dream should not be stigmatized, demeaned, or shut out of opportunities because of their race or sex.

These illegal DEI and DEIA policies also threaten the safety of American men, women, and children across the Nation by diminishing the importance of individual merit, aptitude, hard work, and determination when selecting people for jobs and services in key sectors of American society, including all levels of government, and the medical, aviation, and law-enforcement communities. Yet in case after tragic case, the American people have witnessed first-hand the disastrous consequences of illegal, pernicious discrimination that has prioritized how people were born instead of what they were capable of doing.

The Federal Government is charged with enforcing our civil-rights laws. The purpose of this order is to ensure that it does so by ending illegal preferences and discrimination.

Sec. 2. Policy. It is the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work. I therefore order all executive departments and agencies (agencies) to terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements. I further order all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.

Sec. 3. Terminating Illegal Discrimination in the Federal Government. (a) The following executive actions are hereby revoked:

(i) Executive Order 12898 of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations);

(ii) Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce);

(iii) Executive Order 13672 of July 21, 2014 (Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity); and

(iv) The Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National Security Workforce).

(b) The Federal contracting process shall be streamlined to enhance speed and efficiency, reduce costs, and require Federal contractors and subcontractors to comply with our civil-rights laws. Accordingly:

(i) Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity), is hereby revoked. For 90 days from the date of this order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025.

(ii) The Office of Federal Contract Compliance Programs within the Department of Labor shall immediately cease:

(A) Promoting ”diversity”;

(B) Holding Federal contractors and subcontractors responsible for taking ”affirmative action”; and

(C) Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

(iii) In accordance with Executive Order 13279 of December 12, 2002 (Equal Protection of the Laws for Faith-Based and Community Organizations), the employment, procurement, and contracting practices of Federal contractors and subcontractors shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate the Nation’s civil rights laws.

(iv) The head of each agency shall include in every contract or grant award:

(A) A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and

(B) A term requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.

(c) The Director of the Office of Management and Budget (OMB), with the assistance of the Attorney General as requested, shall:

(i) Review and revise, as appropriate, all Government-wide processes, directives, and guidance;

(ii) Excise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures to streamline those procedures, improve speed and efficiency, lower costs, and comply with civil-rights laws; and

(iii) Terminate all ”diversity,” ”equity,” ”equitable decision-making,” ”equitable deployment of financial and technical assistance,” ”advancing equity,” and like mandates, requirements, programs, or activities, as appropriate.

Sec. 4. Encouraging the Private Sector to End Illegal DEI Discrimination and Preferences.

(a) The heads of all agencies, with the assistance of the Attorney General, shall take all appropriate action with respect to the operations of their agencies to advance in the private sector the policy of individual initiative, excellence, and hard work identified in section 2 of this order.

(b) To further inform and advise me so that my Administration may formulate appropriate and effective civil-rights policy, the Attorney General, within 120 days of this order, in consultation with the heads of relevant agencies and in coordination with the Director of OMB, shall submit a report to the Assistant to the President for Domestic Policy containing recommendations for enforcing Federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI. The report shall contain a proposed strategic enforcement plan identifying:

(i) Key sectors of concern within each agency’s jurisdiction;

(ii) The most egregious and discriminatory DEI practitioners in each sector of concern;

(iii) A plan of specific steps or measures to deter DEI programs or principles (whether specifically denominated "DEI" or otherwise) that constitute illegal discrimination or preferences. As a part of this plan, each agency shall identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or associations, foundations with assets of 500 million dollars or more, State and local bar and medical associations, and institutions of higher education with endowments over 1 billion dollars;

(iv) Other strategies to encourage the private sector to end illegal DEI discrimination and preferences and comply with all Federal civil-rights laws;

(v) Litigation that would be potentially appropriate for Federal lawsuits, intervention, or statements of interest; and

(vi) Potential regulatory action and sub-regulatory guidance.

Sec. 5. Other Actions. Within 120 days of this order, the Attorney General and the Secretary of Education shall jointly issue guidance to all State and local educational agencies that receive Federal funds, as well as all institutions of higher education that receive Federal grants or participate in the Federal student loan assistance program under Title IV of the Higher Education Act, 20 U.S.C. 1070 *et seq*., regarding the measures and practices required to comply with *Students for Fair Admissions, Inc.* v. *President and Fel-*

lows of Harvard College, 600 U.S. 181 (2023).

Sec. 6. Severability. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

Sec. 7. Scope. (a) This order does not apply to lawful Federal or private-sector employment and contracting preferences for veterans of the U.S. armed forces or persons protected by the Randolph-Sheppard Act, 20 U.S.C. 107 *et seq*.

(b) This order does not prevent State or local governments, Federal contractors, or Federally-funded State and local educational agencies or institutions of higher education from engaging in First Amendment-protected speech.

(c) This order does not prohibit persons teaching at a Federally funded institution of higher education as part of a larger course of academic instruction from advocating for, endorsing, or promoting the unlawful employment or contracting practices prohibited by this order.

Sec. 8. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

The White House,
January 21, 2025.

[Filed with the Office of the Federal Register, 8:45 a.m., January 30, 2025]

NOTE: This Executive order was published in the *Federal Register* on January 31. *Categories:* Executive Orders : Discrimination prevention and merit-based opportunity protection efforts. *Subjects:* Attorney General; Discrimination, prevention efforts; Diversity, equity, and inclusion programs, restriction efforts; Domestic Policy Council; Merit-based policies and protections, promotion efforts; Office of Management and Budget; Secretary of Education. *DCPD Number:* DCPD202500158.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LAWYERS FOR FAIR RECIPROCAL ADMISSION, *Plaintiff-Appellant*, v. ANN A. SCOTT TIMMER, *Defendants-Appellees*. Ninth Circuit Docket No. 25-3551

RULE 28(j) LETTER OF SUPPLEMENTAL AUTHORITY

Re: Case No. 25-3551, Lawyers for Fair Reciprocal Admission v. Timmer

Appellants submit this letter pursuant to FRAP Rule 28(j) to bring four significant post-briefing developments to the Court's attention, each bearing directly on the rational-basis arguments.

First. On April 30, 2026, the FTC, DOJ Antitrust Division, and U.S. Attorney for the Middle District of Tennessee jointly wrote to the Tennessee Supreme Court concluding that ABA accreditation "goes far beyond what is reasonably necessary to assure adequate preparation to practice law" and constitutes an anticompetitive monopoly. *In Re: ADM2025-01403* (FTC/DOJ Letter, Apr. 30, 2026). Rule 34 permanently bars tens of thousands of graduates of California-accredited non-ABA law schools — including LFRA member Robin Synder — from even taking the Arizona bar examination. A categorical exclusion predicated on an accreditation standard the federal government's antitrust enforcers have condemned as anticompetitive cannot survive rational basis review.

Second. Executive Order 14279, *Reforming Ac-*

creditation to Strengthen Higher Education (Apr. 23, 2025), directed the Department of Education to "resume recognizing new accreditors to increase competition" and to investigate the ABA's standards. 90 Fed. Reg. 17529. Rule 34 entrenches the monopoly the President directed be dismantled.

Third. The Texas and Florida Supreme Courts have already eliminated ABA-only accreditation as a bar eligibility condition. *Final Approval of Amendments to Rule 1*, Misc. Dkt. No. 26-9002 (Tex. Sup. Ct. Jan. 6, 2026); *In Re: Amendments to Rules*, Dkt. No. SC2025-2064 (Fla. Sup. Ct. Jan. 15, 2026). **Fourth.** On April 30, 2026, the Alabama Supreme Court issued an order eliminating ABA accreditation as a bar examination requirement, effective January 1, 2027, and expressly permitting graduates of out-of-state law schools to sit for the Alabama bar if qualified in their home jurisdictions. *Order on Rules III and IV* (Ala. Sup. Ct. Apr. 30, 2026). Under Alabama's new rule, Robin Synder — licensed California — could sit for the Alabama bar. Under Rule 34, she cannot apply in Arizona.

A rule that permanently bars tens of thousands from even attempting the bar examination, and that now stands in isolation against the uniform direction of the President, the FTC, the DOJ, and the Supreme Courts of Texas, Florida, and Alabama, cannot survive rational basis review.

Respectfully submitted,

/s/ Joseph Robert Giannini
Counsel for LFRA

This letter is 348 words excluding the caption and signature block.

UNITED STATES OF AMERICA

Federal Trade Commission

WASHINGTON, D.C. 20580

U.S.Department of Justice, Antitrust Division Office of Policy Planning U.S. Attorney's Office for the Middle District of Tennessee Bureau of Competition

April 30, 2026

Supreme Court of Tennessee 401 Seventh Avenue North Nashville, TN 37219-1407 (615) 253-1470 *By email*

Re: Potential Regulatory Reforms to Increase Access to Quality Legal

Representation

To the Honorable Chief Justice and Justices of the Supreme Court of Tennessee:

We are the Directors of the Federal Trade Commission's (FTC or Commission) Office of Policy Planning and Bureau of Competition,[1] the United States Attorney (USAO) for the Middle District of Tennessee, and Deputy Assistant Attorneys General at the U.S. Department of Justice's Antitrust Division (DOJ Antitrust Division or the Division).[2] The FTC's Office of

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[1] This comment expresses the views of staff of the FTC's Office of Policy Planning and Bureau of Competition. It does not necessarily represent the views of the Federal Trade Commission or of any individual Commissioner. The Commission has, however, voted to authorize the submission of this comment.

[2] The U.S. Attorney's Office for the Middle District of Tennessee and the U.S. Department of Justice's Antitrust Division sign this letter in support of the positions the Federal Trade Commission articulates herein.

Policy Planning engages with state legislatures, regulatory boards, and other government officials on competition and consumer protection issues to champion the interests of the American people. The FTC's Bureau of Competition and the DOJ Antitrust Division enforce America's antitrust laws.

Competition is the lifeblood of the American economy, spurring innovation, expanding output and employment, lowering prices, improving quality, and increasing access to goods and services. Promoting competition and enhancing consumer choice are central goals for the Commission. Eliminating regulatory barriers that raise prices, prop up entrenched monopolies, or otherwise restrain the competitive economy is key to achieving these goals.

We write this letter to advance those objectives and respond to the Tennessee Supreme Court's ("Court") September 16, 2025 Order ("Order") soliciting public comments to inform its effort to "reassess[] its approach to regulation of the legal profession," including the Court's reliance on American Bar Association (ABA) law school accreditation.[3] The Commission has substantial experience evaluating the competitive effects of professional licensing and related restric-

3 In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, at 4, Dkt. No. ADM2025-01403 (Tenn. Sup. Ct. Sept. 16, 2025) [hereinafter Order].

tions across the U.S. economy.[4] Through its advocacy program, the Commission regularly advises states and localities regarding the competitive effects of various professional and occupational licensing requirements.[5] The Commission's prior advocacies highlight the risks of entrusting market participants to act as gatekeepers for their profession or to set the terms on which they and their fellow competitors may compete.[6] Two recent advocacy letters supported actions

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4 *See, e.g.*, MAUREEN K. OHLHAUSEN, FED. TRADE COMM'N, PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION ON COMPETITION AND OCCUPATIONAL LICENSURE BEFORE THE JUDICIARY COMMITTEE SUBCOMMITTEE ON REGULATORY REFORM, COMMERCIAL AND ANTITRUST LAW 10–15 (Sept. 12, 2017) [hereinafter Ohlhausen House Statement], https://www.ftc.gov/system/files/documents/public_statements/1253073/house_testimony_licensing_ and_rbi_act_sept_2017_vote.pdf.

5 *See, e.g.*, MAUREEN K. OHLHAUSEN, FED. TRADE COMM'N, PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS "LICENSE TO COMPETE: OCCUPATIONAL LICENSING AND THE STATE ACTION DOCTRINE" 1–2 (Feb. 2, 2016) [hereinafter Ohlhausen Senate Statement], https://www.ftc.gov/system/files/ documents/public_statements/912743/160202occupationallicensing.pdf; *Selected Advocacy Relating to Occupational Licensing*, Fed. Trade Comm'n, https://www.ftc.gov/policy/advocacy-research/advocacy/economic-liberty/selected- advocacy-relating-occupational-licensing (linking to over 20 such advocacies).

6 *See* Ohlhausen Senate Statement, *supra* note 5, at 1 ("[W]hen regulatory authority is delegated to a board composed of members of the occupation it regulates," their "private interests may lead to . . . restrictions that discourage new entrants, deter competition among licensees and from providers in related fields, and suppress innovative products or services that could challenge the status quo.").

by the Texas Supreme Court and Florida Supreme Court to end their dependence on ABA law school accreditation.[7] The Commission has also brought enforcement actions in this realm, in one of which the U.S. Supreme Court affirmed that the antitrust laws limit the ability of market incumbents to suppress competition through professional boards.[8]

The USAO for the Middle District of Tennessee is the chief federal law enforcement agency where the Tennessee Supreme Court is located.[9] Although also responsible for the prosecution of federal crimes, the USAO represents the federal government in actions that arise in the jurisdiction, including as plaintiff in potential antitrust actions.[10] U.S. Attorneys collaborate with other federal agencies such as the FTC, as well as divisions in the main office of the Department of Justice, to enforce federal law in the district. The United States Attorney for the Middle District has written at great length on the history of government-backed monopolies and antitrust law in the State of

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[7] Fed. Trade Comm'n, FTC Staff Comment to the Texas Supreme Court Regarding Proposed Amendment to Rule 1 of the Rules Governing Admission to the Bar of Texas (Dec. 1, 2025), https://www.ftc.gov/news-events/news/public-statements/ftc-staff-comment-texas-supreme-court-regarding-proposed-amendment-rule-1-rules-governing-admission; Fed. Trade Comm'n, FTC Staff Comment to the Florida Supreme Court Regarding Amendment to Rule 4-13.2 of the Florida Supreme Court's Rules Relating to Admissions to the Bar (Mar. 31, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/FloridaABALetterFinal.pdf.

[8] *See N.C. State Bd. of Dental Exam'rs v. FTC*, 574 U.S. 494, 513–14 (2015).

[9] Middle District of Tennessee, Department of Justice, https://www.justice.gov/usao-mdtn.

[10] Offices of the United States Attorney, Department of Justice, https://www.justice.gov/usao.

Tennessee.[11]

The DOJ Antitrust Division, similar to the FTC, regularly engages in advocacy regarding occupational licensing requirements and accreditation standards.[12] The Division recently filed a statement of interest in a private lawsuit, affirming that professional associations are subject to the antitrust laws when establishing accreditation standards and assessing compliance with those standards. In its statement, the Division explained that accreditation societies cannot impose barriers that limit the number of entrants into a profession.[13] The Division also encouraged a state legislature to consider the competitive benefits of expanding scope-of-practice laws in a joint letter with the FTC.[14]

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11 Braden H. Boucek, *Reclaiming the Genius of a Free State, Tennessee's Forgotten Anti-Monopolies Clause*, 13 BELMONT L. REV. 1 (2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6198398.

12 *See, e.g.*, Letter from Robert Potter, Chief, Legal Pol'y Sec., Antitrust Div., U.S. Dep't of Justice, to Hon. Peter MacGregor, Mich. State Senate (Nov. 29, 2016), https://www.justice.gov/atr/page/file/913866/dl?inline (encouraging a state legislature to consider the competitive effects of restrictive regulations that reduced the delivery of professional services); Letter from Robert Potter, Antitrust Div., U.S. Dep't of Justice, to Hon. Dan K. Morhaim, Md. House of Dels. (Sept. 10, 2018), https://www.justice.gov/archives/atr/page/file/1092791/dl?inline (recommending expanding the list of state-approved certifying bodies that can serve as competitive alternatives to the dominant certifying organization).

13 Statement of Interest of the United States, Lincoln Mem. Univ. v. Am. Veterinary Medical Ass'n, No. 3:25-cv- 00282 (Dec. 15, 2025), https://www.justice.gov/atr/media/1420886/dl?inline.

14 Letter from Marina Lao, Dir., Office of Pol'y Planning, Fed. Trade Comm'n, & Robert Potter, Antitrust Div., U.S. Dep't of Justice, to Hon. Bradley H. Jones, Jr., Mass. House of Representatives (Feb. 18, 2016), https://www.justice.gov/archives/opa/file/826371/dl.

Further, the DOJ Antitrust Division brought an enforcement action to prevent gatekeeping in professional licensing. That action sought to prevent the ABA from engaging in anticompetitive practices, which restrained competition among ABA-accredited law schools and between ABA-and non-ABA accredited law schools.[15] That action resulted in a ten-year consent decree.

Based on this experience, we laud the Court's decision to revisit the fact that it "has come to rely heavily on accreditation by the [ABA] in establishing minimum educational requirements for applicants to the Bar."[16]Allowing the ABA to monopolize the determination of the education requirements for taking the bar examination and practicing law in Tennessee is inimical to the principles on which competition law rests. The ABA is dominated by practicing attorneys, who have strong incentives to limit the supply of lawyers competing to provide legal services. And its accreditation group is dominated by law school faculty and administrators with strong incentives to thwart lower cost alternatives for legal education. Therefore, Tennessee's reliance on ABA accreditation raises serious competitive risks by broadly delegating to the ABA the state's authority to set eligibility requirements for admission to the Tennessee bar.

The stakes are real. The Court correctly observed that "the current supply of legal services in the United States is insufficient to meet the needs of many Amer-

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15 *See* Compl., United States v. Am. Bar Ass'n, No. 95-cv-01211 (D.D.C. filed June 27, 1995), https://www.justice.gov/atr/case-document/file/485696/dl; Competitive Impact Statement, United States v. Am. Bar Ass'n, No. 95-cv-01211 (D.D.C. filed July 14, 1995), https://www.justice.gov/atr/case-document/file/485691/dl.

16 Order, *supra* note 3, at 1.

icans," with particular harm to low income and rural residents.[17] The ABA's incentive to impose overly onerous law school accreditation requirements only makes the problem worse. We encourage the Court to reduce its reliance on the ABA and collaborate with other states that are working towards opening up law school accreditation to competition.

I. The Court wisely questioned whether its heavy reliance on ABA accreditation unnecessarily limits the supply of legal services in Tennessee and increases costs.

The Order explained that the Court "is interested in reassessing its approach to regulation of the legal profession to ensure that all Tennesseans have access to affordable quality legal services."[18] The Court recognized that "requirements for admission to practice law established by the Court . . . necessarily limit the supply of legal services and increase their cost."[19] It solicited comment on seven issues,[20] including two involving its reliance on ABA accreditation. The Court noted that "[c]omments should take into consideration the Court's goals of lowering barriers to entry into the legal profession and ensuring the availability of affordable legal services to Tennesseans, while also ensuring the competency of Tennessee's attorneys and safeguarding the public."[21]

Currently, pursuant to its "inherent power 'to regulate and supervise the practice of law' " in Tennessee,[22] the Court permits any person who "graduated with

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17 *Id.* at 2, 3.

18 *Id.* at 4.

19 *Id.* at 2.

20 *Id.* at 4–5.

21 *Id.* at 5.

22 *Id.* at 1 (quoting Manookian v. Bd. of Pro. Resp., 685 S.W.3d 744, 801 (Tenn. 2024)).

a J.D. Degree from a law school accredited by the ABA" to take the Tennessee bar examination.[23] The Court also authorizes the Tennessee Board of Law Examiners to approve unaccredited Tennessee law schools—but not law schools located in other states—so that their graduates may take the Tennessee bar examination.[24] The rule directs the Board to approve unaccredited Tennessee schools, in part, based on whether they "meet[] educational standards similar to those defined in the ABA Standards."[25] Only one law school, Nashville School of Law, currently has such approval.[26] So the Court does indeed "rely heavily on accreditation by the [ABA] in establishing minimum education requirements for applicants to the [Tennessee] Bar."[27]

The ABA is the largest voluntary professional organization in the world; its "mission is to be the national representative of the legal profession," serv-

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[23] Tenn. Sup. Ct. R. 7, § 2.02(a).

[24] *Id.* In addition, the rules identify limited circumstances in which applicants can take the Tennessee bar examination without meeting either of these education requirements. *See* Tenn. Sup. Ct. R. 7, § 2.02(d).

[25] Tenn. Sup. Ct. R. 7, § 17.02(a). Other provisions require law schools to adopt a mission statement and an independent governing board and cover the school's (a) organization and administration, (b) faculty, (c) facilities, (d) library, (e) curriculum and admissions standards, and (f) publication of certain information. *See id.* at 17.02(b).

[26] In Re: Tennessee-Approved Law Schools, Dkt. No. ADM2025-01335 (Tenn. Sup. Ct. Sept. 4, 2025) (renewing approval of Nashville School of Law); E-mail from Tenn. Bd. of Law Exam'rs Admin. to Austin King, Attorney Advisor, Fed. Trade Comm'n (Apr. 10, 2026, 4:00 p.m. ET) (stating that Nashville School of Law is the only law school currently approved by the Tennessee Board of Law Examiners) (on file with FTC).

[27] Order, *supra* note 3, at 1.

ing a membership filled with practicing attorneys.[28] The ABA's Council of the Section of Legal Education and Admissions to the Bar ("ABA Council") establishes the standards that law schools must meet to become accredited, covering areas such as faculty, admissions, curriculum, governance, and the library and other facilities.[29] It also determines whether law schools have complied with these standards and warrant ABA accreditation.[30] The ABA Council has twenty-one members, who are predominantly current or former law school or other university administrators or faculty; the remainder include practicing lawyers, judges, a law student, and a Senior Fellow at a trade association that represents universities' interests.[31] These ABA Council members are selected by an ABA Section largely composed of law school faculty and

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28 *Consumer FAQs*, ABA, https://www.americanbar.org/groups/professional_responsibility/resources/resources_ for_the_public/consumer_faqs/ (last visited Apr. 24, 2026).

29 *See* ABA Section of Legal Education and Admissions to the Bar, *Standards and Rules of Procedure for Approval of Law Schools—2025–2026*, https://www.americanbar.org/groups/legal_education/accreditation/standards/standards -rules (last visited Apr. 24, 2026) [hereinafter ABA Standards].

30 *Schools Seeking Council Approval*, ABA, https://www.americanbar.org/groups/legal_education/accreditation/ (last visited Apr. 24, 2026). The law school accreditation application process is lengthy, including payment of a fee, preparation of studies by the applicant, collection of data, and a site evaluation team visit and report. *See id*.

31 *Section of Legal Education and Admissions to the Bar Leadership*, ABA, https://www.americanbar.org/groups/ legal_education/about/leadership/ (last visited Apr. 24, 2026) (showing the professional titles of the 21 Council members, with 14 listing current or former positions at law schools or universities and Daniel Madzelan listing his position with the American Council on Education).

administrators.[32]

The Court sought public comment on two questions specifically related to its reliance on ABA accreditation. The first asked, "[w]hether the Court should modify, reduce, or eliminate its reliance on ABA accreditation in setting minimum educational requirements for applicants to the Tennessee Bar."[33] Yes, the Court should reduce its reliance on ABA accreditation. Allowing the ABA to monopolize the determination of the education requirements for taking the bar examination and practicing law in Tennessee effectively delegates state power to private actors with potential anticompetitive interests. As described in Section III below, the attorneys who dominate the ABA have strong incentives to limit the supply of lawyers who compete with them to provide legal ser-

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32 The ABA's Section of Legal Education and Admissions to the Bar has over 17,000 members, including practicing lawyers, judges, and legal educators. *About the Section of Legal Education and Admissions to the Bar*, ABA, https://www.americanbar.org/groups/legal_education/about/ (last visited Apr. 24, 2026); *New to Bar Admissions? What You Might Like to Know About: The ABA's Connection to Bar Admissions*, 90 THE BAR EXAMINER 86 (Spring 2021), https://thebarexaminer.ncbex.org/article/spring-2021/new-bar-admissions-aba-connections/ (reporting that the Section's "membership is generally composed of legal educators and bar examiners" but "is open to any ABA member").

33 Order, *supra* note 3, at 4.

vices.[34] And the law school and university faculty and administrators who dominate the ABA's accreditation group have strong incentives to thwart lower cost alternatives to the legal education they provide. Therefore, Tennessee's reliance on ABA accreditation raises serious competitive risks by broadly delegating the state's authority to set education requirements for admission to the Tennessee bar to bodies controlled by individuals with anticompetitive incentives.

The second question posed by the Court asked, "[w]hether there are any practicable alternatives to ABA accreditation that the Court should consider."[35] Addressing this question is complicated by the current strength of the ABA accreditation monopoly. However, as discussed in Section IV below, there are steps the Court could take to reduce its reliance on ABA accreditation and open up the accreditation market to competition. The Court already enables the Board of Law Examiners to approve unaccredited Tennessee law schools, so that its graduates may apply for ad-

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34 In its comment, the ABA Council argues that its "work in accreditation matters . . . is separate and independent from the general ABA." *See* Comment, Council of the American Bar Association Section of Legal Education and Admissions to the Bar to the Tennessee Supreme Court, In re: Comments on Law School Accreditation Component of Tennessee's Bar Admission Requirements 9 (Mar. 16, 2026). However, the broader ABA House of Delegates still has the authority to review Council decisions and remand for further consideration, though it must accept ABA Council decisions after two remands. *See* United States v. Am. Bar Ass'n, 135 F. Supp. 2d 28 (D.D.C. 2001); Part III, *infra*. Further, the ABA Council is dominated by other interested parties—higher education faculty, their trade association, and practicing lawyers—and is also subject to influence by the attorneys who dominate the ABA.

35 Order, *supra* note 3, at 4.

mission to the Tennessee Bar.[36] The Court could open this process to schools located outside of Tennessee, and it could eliminate its direction that the Board utilize educational standards similar to the ABA. The Court could also work with other states and the federal government to promote the entry of new law school accreditors to compete with the ABA and provide options to schools that balk at the ABA's costly mandates.

II. Professional boards or trade associations often have strong incentives to restrain competition and may misuse delegated state power to exclude competitors.

Antitrust law has long recognized that professional boards and trade associations frequently have inherent incentives to undermine competition. As Adam Smith observed, "[p]eople of the same trade seldom meet, even for merriment or diversion, but the conversation ends in a conspiracy against the public or in some contrivance to raise prices."[37] Professional and trade associations thus have often been found to violate the antitrust laws when they enter into agreements restricting competition among themselves,[38] or

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36 Tenn. Sup. Ct. R. 7, § 2.02(a).

37 United States v. Realty Multi-List, Inc., 629 F.2d 1351, 1370 (5th Cir. 1980) (quoting Note, *Arbitrary Exclusion from Multiple Listing: Common Law and Statutory Remedies*, 52 CORN. L.Q. 570 (1967)); *see* ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 55 (Great Books 1952) (1776).

38 *See, e.g.*, Goldfarb v. Va. State Bar, 421 U.S. 773, 783 (1975) (holding that a county bar association rule establishing a minimum fee schedule enforced via potential disciplinary action was "a classic illustration of price fixing" by the state bar); FTC v. Ind. Fed'n of Dentists, 476 U.S. 447, 456–65 (1986) (affirming an FTC order that an Indiana Federation of Dentists policy requiring its members to withhold x-rays violated the antitrust laws).

interfering with the ability of others to compete.[39]

Some conduct by professional associations can generate important benefits. For example, the adoption of voluntary standards governing product safety or professional qualifications, promulgated with "meaningful safeguards" around the process for developing such standards, can have "significant procompetitive advantages."[40] Voluntary industry standards are therefore generally assessed under the rule of reason, which weighs a restraint's procompetitive and anticompetitive effects.[41] Yet courts recognize the inherent anticompetitive incentives in many standards organizations that may lead to abuse of the standards process, particularly where "many of [the standards organization's] officials are associated with members of the industries" it regulates.[42]

The potential for competitive harm increases when state legislation or regulation gives the force of law to restrictions on competition advanced by professional or trade associations. Antitrust law respects the au-

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39 *See, e.g.*, E. States Retail Lumber Dealers' Ass'n v. United States, 234 U.S. 600, 611–14 (1914) (affirming Sherman Act violation against associations of retail lumber dealers who conspired to prevent competition from wholesale dealers); Fashion Originators' Guild, Inc. v. FTC, 312 U.S. 457, 463–65 (1941) (affirming FTC order that a trade association of garment manufacturers cease an organized boycott designed to thwart the sale of lower-priced garments that are similar to the trade association members' original styles).

40 Allied Tube & Conduit Corp. v. Indian Head, Inc., 486 U.S. 492, 501 (1988) (quoting Am. Soc'y of Mech. Eng'rs v. Hydrolevel Corp., 456 U.S. 556, 572 (1982)); *see also* Ohlhausen Senate Statement, *supra* note 5, at 1 (stating that the Commission "recognize[s] that occupational licensing can offer many important benefits," such as "protect[ing] consumers from health and safety risks").

41 *See, e.g.*, *Allied Tube*, 486 U.S. at 500–01.

42 *Hydrolevel*, 456 U.S. at 571.

thority of states to promote their policy goals through regulation, even when such actions inhibit competition. It thus affords immunity from antitrust liability when two conditions are met: (1) the challenged restraint must be "clearly articulated and affirmatively expressed as state policy," and (2) "the policy must be 'actively supervised' by the State itself."[43] There is a particular danger of competitive harm when a state professional board is composed of unsupervised industry competitors. In *North Carolina State Board of Dental Examiners v. FTC*, for example, the Supreme Court refused to extend immunity to the decision of a state board dominated by licensed dentists to adopt a regulation prohibiting dental hygienists from offering teeth whitening services.[44]

The Commission has emphasized harm to competition arising when "entrants are effectively required to obtain permission from incumbent competitors to enter or expand within a particular market."[45] These harms from "unnecessary occupational regulation" include "dampening incentives for innovation in products, services, and business models" and "creating

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[43] Cal. Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc., 445 U.S. 97, 105 (1980) (quoting City of Lafayette v. La. Power & Light Co., 435 U.S. 389, 410 (1978) (Brennan, J.) (footnote omitted)).

[44] 574 U.S. 494, 507 (2015).

[45] *See* Maureen K. Ohlhausen & Gregory P. Luib, *Brother, May I?: The Challenge of Competitor Control over Market Entry*, 4 JOURNAL OF ANTITRUST ENF'T 111, 111 (2016), https://doi.org/10.1093/jaenfo/jnv028; Ohlhausen House Statement, *supra* note 4, at 3 ("Occupational regulation can be especially problematic when regulatory authority is delegated to a board controlled by active market participants," since "there is a risk that the board's decisions will serve the private economic interests of its members, not the policies of the state or the well-being of its citizens.").

barriers to entry or repositioning by providers."[46] Legal scholars agree, stressing that boards composed largely of incumbent members of the profession can serve as "cartels by another name" that are "deputized to regulate and to outright exclude their own competition."[47] This "inherent conflict of interest and a risk of anticompetitive abuse" arises "in any accreditation program where market participants wield the power to exclude"—"for even the most selfless and well-intentioned decision makers" may be influenced when decisions "direct[ly] implicat[e] their own status . . . and well-being."[48]

In engaging with state officials regarding occupational licensing, the Commission "ask[s] that they consider whether: (1) any licensing regulations are likely to have a significant adverse effect on competition; (2) those restrictions are targeted to address actual risks of consumer harm; and (3) the restrictions are narrowly tailored to minimize burdens on competition, or whether less restrictive alternatives are available."[49] This inquiry is designed to "help alleviate unnecessary licensing burdens" that harm competi-

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[46] Ohlhausen Senate Statement, *supra* note 5, at 1.

[47] Aaron Edlin & Rebecca Haw, *Cartels by Another Name: Should Licensed Occupations Face Antitrust Scrutiny?*, ⟦FN:162⟧ U. PA. L. REV. 1093, 1093–94 (2014). The authors contend that "[l]icensing boards are largely dominated by active members of their respective industries who meet to agree on ways to limit the entry of new competitors." *Id.* at 1095–96.

[48] Marina Lao, *Discrediting Accreditation?: Antitrust and Legal Education*, 79 WASH. U. L. Q. 1035, 1036–37 (2001).

[49] Ohlhausen House Statement, *supra* note 4, at 4.

tion.[50] When professional licensing restrictions fall short of these principles, they may not serve the public interest—they may instead further the anticompetitive goals of market participants who influence and set the standards. Based on these principles, the Commission has argued against restrictions that would undermine competition by imposing certification or educational requirements on suppliers beyond what is needed to properly perform the service. For example, the Commission has frequently advised against restrictions on those permitted to provide medical or dental services that would exclude qualified suppliers.[51] The Commission has also recommended caution in imposing costly educational requirements to qualify

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[50] Maureen Ohlhausen, Acting Chairman, Fed. Trade Comm'n, Transcript of the Economic Liberty Taskforce Roundtable: The Effects of Occupational Licensure on Competition, Consumers and the Workforce: Empirical Research and Results 4 (Nov. 7, 2017), https://www.ftc.gov/system/files/documents/public_events/1252903/ 11_07_2017_the_effects_of_occupational_licensure_transcripts.pdf.

[51] *See, e.g.*, FED. TRADE COMM'N, POLICY PERSPECTIVES: COMPETITION AND THE REGULATION OF ADVANCED PRACTICE NURSES (2014), https://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition- regulation-advanced-practice-nurses/140307aprnpolicypaper.pdf (cautioning against restricting the scope of practice of advanced practice registered nurses or subjecting them to excessive physician supervision); Fed. Trade Comm'n, FTC Staff Comment Letter on Likely Competitive Impact of House Bill 684 to Amend GA Code § 43-11-74 (Jan. 29, 2016), https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-georgia-state-senator- valencia-seay-concerning-georgia-house-bill-684/160201gadentaladvocacy.pdf (supporting a bill permitting dental hygienists to provide certain services without the direct supervision of a dentist).

for professional licensure.[52]

III. The Tennessee Supreme Court's heavy reliance on ABA accreditation to

determine eligibility to take the Tennessee bar examination may stifle

competition among law schools and among lawyers.

As it stands, the ABA has a monopoly on the accreditation of American law schools.[53] It is the sole

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52 Fed. Trade Comm'n, FTC Staff Comment Letter on Washington Administrative Code 4-25-710, § IV (Mar. 18, 1996), https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-honorable-jean- silver-concerning-washington-administrative-code-4-25-710-require/v960006.pdf (cautioning that requiring 150 hours of undergraduate coursework to sit for the CPA examination could "increase the cost of entry and may raise prices to consumers of CPA services," and recommending that the state "seek persuasive evidence that, notwithstanding these concerns, the net effect of the amendment on consumers would be positive").

53 *See* George B. Shepherd & William G. Shepherd, *Scholarly Restraints? ABA Accreditation and Legal Education*, 19 CARDOZO L. REV. 2091, 2198 (1998) ("The ABA accreditation system creates almost complete monopoly control over each of the three markets for hiring law faculty, for legal training, and for legal services."); Workgroup on the Role of the American Bar Association in Bar Admission Requirements, Final Report 16 (Oct. 27, 2025) [hereinafter Florida Workgroup Report], ("the [ABA], through its Council, holds a near monopoly over legal education accreditation in the United States"), https://www-media.floridabar.org/uploads/2025/10/Final-Report-of-the- Workgroup-on-the-Role-of-the-ABA-in-Bar-Admission-Requirements.pdf. The Florida Supreme Court established the Workgroup to study Florida's reliance on ABA accreditation in determining eligibility to take the Florida bar examination. *See id.* at 5.

law school accreditor currently recognized by the Department of Education and the only one to operate on a national level across multiple states. This monopoly power is protected by rules and regulations in most states that make eligibility for their respective bars depend either entirely or heavily on graduation from an ABA-accredited school.[54]

The ABA, unfortunately, has a long history of using its law school accreditation monopoly to harm competition. As mentioned previously, thirty years ago, the DOJ Antitrust Division brought a Sherman Act complaint against the ABA and challenged conduct that dated back to 1973.[55] The Division alleged that the ABA allowed "[l]egal educators" to capture the accreditation process, "at times act[ing] as a guild that protected the interests of professional law school personnel."[56] The complaint stated that ABA "salary standards and their application . . . unreasonably restricted competition in the law school labor market and" forced accredited schools to "ratchet[] up law school salaries."[57] According to the Division, other restrictions "deterr[ed] effective competition from [non-ABA-accredited] law schools."[58] The ABA set-

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54 *See, e.g.*, Nat'l Conference of Bar Exam'rs, Comprehensive Guide to Bar Admission Requirements, https://reports.ncbex.org/comp-guide/charts/chart-3/ (last visited Apr. 24, 2026) (summarizing the requirements in each state); Florida Workgroup Report, *supra* note 53, Attachment B: Chart of Educational Requirement to Sit for the Bar Examination in the United States (same).

55 See Compl., *supra*, note 15, ¶ 35.

56 Competitive Impact Statement, *supra* note 15, at 2, 4.

57 Compl., *supra* note 15, ¶ 16.

58 Competitive Impact Statement, *supra* note 15, at 6–7.

tled, resolving the lawsuit through a consent decree.[59] In 2006, the U.S. District Court for the District of Columbia found that "on multiple occasions the ABA ha[d] violated clear and unambiguous provisions" of that consent decree; it ordered the ABA to comply and pay $185,000 to compensate the DOJ Antitrust Division for the costs of the investigation.[60]

Nonetheless, the ABA continues to wield its law school accreditation monopoly in a manner that harms competition. When it strikes the right balance, accreditation can be procompetitive and serve the state's interest in "safeguard[ing] a baseline of legal educational quality and support."[61] The ABA takes a different approach. It forces every law school to follow its pre-

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[59] The consent decree prohibited standards relating to compensation paid to law school faculty and administrators, restricted the collection and dissemination of information regarding compensation, and eliminated certain restrictions on accepting transfer credits from state-accredited law schools or enrolling graduates of such schools in post-J.D. programs. It also included structural provisions designed to insulate the ABA Council's conduct from influence by interested parties such as legal educators. *See* United States v. Am. Bar Ass'n, 934 F. Supp. 435, 436–37 (D.D.C. 1996). The decree was modified in 2001 to limit the ability of the ABA House of Delegates to overrule ABA Council decisions, in order to conform with Department of Education regulations. United States v. Am. Bar Ass'n, 135 F. Supp. 2d 28, 30, 32 (D.D.C. 2001).

[60] United States v. Am. Bar Ass'n, No. 95-cv-1211, 2006 U.S. Dist. LEXIS 42645, at *2 (D.D.C. June 26, 2006); Petition by the United States for an Order to Show Cause Why Defendant ABA Should Not Be Found in Civil Contempt ¶¶ 11–17, United States v. Am. Bar Ass'n, No. 95-cv-1211 (D.D.C. filed June 23, 2006), Dkt. No. 101.

[61] Florida Workgroup Report, *supra* note 53, at 17 (footnote omitted).

ferred costly, elitist model of legal education.[62] Over twenty years ago, Professor Marina Lao scrutinized the ABA's accreditation standards. She concluded that they were "unreasonable and, therefore, anticompetitive," because they "reflect the profession's preference for the elite-model law school," and exclude schools providing a "nonelite legal education [that] is perfectly adequate for many types of legal practice."[63]

Secure in its state-protected monopoly position, the ABA has brushed off such calls for a commonsense approach that sets baseline requirements.[64] It instead insists on excessive restrictions that unnecessarily "drive up costs for law schools"[65] and protect the interests of incumbent higher education institutions and

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62 *See, e.g.*, Letter from Robert Chesney, Dean of the University of Texas School of Law, to the Honorable Chief Justice and Justices of the Supreme Court of Texas § 2 (June 30, 2025) (on file with FTC). *See also* Shepherd, *supra* note 53, at 2114 ("The present accreditation system arose out of successful efforts during the Great Depression by a combination of elite law professors, elite law schools, and elite lawyers to limit competition in each of the three related markets for law faculty, legal training, and legal services.").

63 Lao, *supra* note 48, at 1102. *See also* Shepherd, *supra* note 53, at 2103 ("Formal study at an elite-style law school is certainly one way to train lawyers. But it is not necessarily the best or most cost-effective method for all potential lawyers.").

64 Despite its contrary actions, the ABA this past August claimed that its "Standards are minimum standards for ensuring a quality legal education, but law schools should seek to exceed the Standards consistent with their mission and goals." *Core Principles and Values of Law School Accreditation*, ABA, 1 (Aug. 2025), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/2025/core-principles-and-values-of-law-school-accreditation.pdf (last visited Apr. 24, 2026).

65 Florida Workgroup Report, *supra* note 53, at 21.

their faculty.[66] By increasing the costs of legal education, the ABA's excessive accreditation standards may also limit the supply of new lawyers.[67] With fewer lawyers available, consumers may struggle to access legal services and pay more dearly when they do. Thus, ABA accreditation serves the interests of lawyers and law school faculty who dominate the ABA and Council, while potentially injuring consumers of legal services and saddling law students with high

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[66] *See* Shepherd, *supra* note 53, at 2096 (explaining that "faculty control the law schools, and, consciously or not, they operate them to maximize benefits for faculty"). Moreover, ABA Council members from colleges or universities without law schools have an interest in the ABA's insistence that law school students obtain an undergraduate degree prior to starting law school.

[67] *See, e.g.*, FTC Staff Comment Letter on Washington Administrative Code 4-25-710, *supra* note 52, § III (explaining that an increase in the course work hours required for CPA exam eligibility can increase the costs of entry into the profession, and therefore serve the "economic self-interest" of incumbent suppliers); Press Release, Fed. Trade Comm'n, *FTC Announces Investigation of American Medical Association* (Apr. 13, 1976) (on file with Fed. Trade Comm'n) (announcing that the FTC had "commenced an investigation to determine whether the American Medical Association may have illegally restrained the supply of physicians and health care services through activities relating to . . . accreditation of medical schools and graduate programs").

costs.[68]

The excesses of ABA accreditation take various forms. There are longstanding concerns that the ABA standards “focus on inputs” that increase costs “ ‘rather than educational outputs’ ” that ensure the schools provided actual educational benefits.[69] For example, the ABA requires physical libraries that offer limited value to students preparing for contemporary legal practice that relies on online research.[70] ABA standards also severely limit online courses and programs that could provide lower cost education to

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68 Many law students, as consumers of legal education, are likely injured by the ABA’s costly and unnecessary standards. However, current law students are unlikely to experience the benefits of more flexible accreditation standards that could lower costs of legal education in the future. Indeed, current law students expect to soon become lawyers who may reap the benefits from the reduced competition in the supply of legal services resulting from the ABA’s costly standards. This dynamic likely makes student representation on accreditation bodies insufficient to incentivize downward pressure on costs. Rather than current students, the harm from excessive accreditation standards may be concentrated on potential future students, particularly those prospective students who might only go to law school if unnecessary accreditation standards did not raise tuition or impose barriers limiting the availability of legal education (*e.g.*, through restrictions on online education or requirements for extensive library facilities).

69 Florida Workgroup Report, *supra* note 53, at 18 (quoting Benjamin M. Lepak, *Breaking the ABA’s Law School Cartel: A Proposal to Make Oklahoma Top-Ten in Innovative Lawyer Education*, 1889 INSTITUTE (Mar. 2020), https://1889institute.org/breaking-the-abas-law-school-cartel-a-proposal-to-make-oklahoma-top-ten-in-innovative- lawyer-education/); *id.* at 19 (including criticisms from a former ABA Accreditation Committee member that input requirements “have no real connection to the quality of education”).

70 Florida Workgroup Report, *supra* note 53, at 19.

rural consumers.[71] In addition, critics have questioned the ABA's demands for full-time (rather than adjunct) law faculty, strict limits on faculty teaching loads, and the emphasis on faculty research.[72] While these dictates clearly promote the interests of certain faculty members, they impose high costs without clear indication that they are needed to ensure educational quality. Finally, ABA standards require that a law school's course of study include a minimum of 83 credits to graduate, with the result that nearly all ABA-accredited law schools require three years of study.[73] The Order recognized concerns that longer study requirements raise costs and sought comment on whether the "traditional three-year degree" is truly necessary.[74]

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[71] Generally, ABA accreditation requires that law schools offer no more than half their courses online. *See* ABA Standards, *supra* note 29, at 26–27 (Standard 306). Institutions seeking to exceed this threshold must obtain an acquiescence from the Council. *See id*. The ABA announced plans to consider changing the standards to make fully online law schools eligible to receive accreditation two years ago, but it has not taken action. *See* Comment of Purdue Global Law School to the Honorable Justices of the Tennessee Supreme Court, 4–5, In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403 (Dec. 23, 2025).

[72] Florida Workgroup Report, *supra* note 53, at 18–21; Lao, *supra* note 48, at 1040–43, 1074–78 (describing the wide range of law school operations covered by the ABA's "elite-style law school" standards and their anticompetitive impact); John S. Elson, *Why and How the Practicing Bar Must Rescue American Legal Education from the Misguided Priorities of American Legal Academia*, 64 TENN. L. REV. 1135, 1141–42 (1997) (noting that these standards "keep out of the legal education market schools that would prefer to focus their resources on preparing students for practice").

[73] ABA Standards, *supra* note 29, at 29 (Standard 311).

[74] Order, *supra* note 3, at 4.

Moreover, in recent years, the ABA has even dictated that law schools enact measures that conform to controversial ideological views prevalent among the legal elitists, notwithstanding public opposition and the measures' irrelevance to ensuring a baseline level of legal education. Of particular concern is the ABA's imposition of DEI requirements on American law schools as a requirement of accreditation,[75] which the DOJ and Attorneys General of over 20 states (including Tennessee) regard as illegal under the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023).[76] Tennessee Attorney General Jonathan Skrmetti concluded that ABA Standard 206 "all but *compels* law schools to consider race in both the admissions and employment contexts" and thereby "to defy

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[75] *See* ABA Standards, *supra* note 29, at 17 (Standard 206).

[76] *See* Letter from Pamela Bondi, Att'y Gen., U.S. Dep't of Justice, to David A. Brennen, Council Chair, ABA Section of Legal Education and Admissions to the Bar, (Feb. 28, 2025), https://www.justice.gov/ag/media/ 1392081/dl?inline; Letter from State Attorneys General to David A. Brennen, Council Chair, ABA Section of Legal Education and Admissions to the Bar (Jan. 6, 2025), https://www.scag.gov/media/ru4dwwf m/ multistatecomment-re-standard-206-filed.pdf. The ABA temporarily suspended Standard 206 pending review of its consistency with the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023). *See* Florida Workgroup Report, *supra* note 53, at 25. The Council has not withdrawn the standard, *see id.*, although it recently recommended its repeal, *see* Memorandum from Daniel Thies, Council Chair, ABA Section of Legal Education and Admissions to the Bar (Feb. 26, 2026), https://www.americanbar.org/content/dam/ aba/administrative/legal_education_and_admissions_to_t he_bar/2026/not ice-comments/2026-february-standard-206-repeal-notice-comment-memo.pdf.

the Court's clear directive."[77] These actions are recent additions to a long list that have buried the antiquated "perception that [the ABA] is an impartial and objective professional association"[78] and fueled views that it has become "more of a political organization."[79]

Absent its monopoly bolstered by delegated state power, the ABA's insistence on an expensive, ideologically biased legal education might not raise competitive concerns.[80] It could even offer a useful signal to prospective law students seeking such an experience. If other, differentiated law school ac-

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77 Letter of Jonathan Skrmetti, Att'y Gen., State of Tenn., to the Council of the American Bar Association 2 (June 3, 2024), https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2024/pr24-47-letter.pdf.

78 Florida Workgroup Report, *supra* note 53, at 25 (quoting Letter from William Barr, Att'y Gen., U.S. Department of Justice, to Talbot D'Alemberte, President, American Bar Association (Aug. 7, 1992)).

79 Barry Currier, *Is the American Bar Association the Optimal Home Base for the Regulation of Legal Education?*, (June 13, 2025), https://barrycurrier.substack.com/p/is-the-american-bar-association-the); *see also* John S. Baker, *Seeking Competition in Law School Accreditation*," 11 TEX. REV. OF L. & POL. 385, 387, 388 (2007) (declaring that "[t]he fact is that the ABA is an ideological organization forcing its ideology into the standards on accreditation" and that due to "the lack of adequate competition" "the whole process has become very politicized"); Comment of Jonathan Skrmetti, Att'y Gen., State of Tenn., to the Honorable Justices of the Tenn. Sup. Ct., In re: No. ADM2025-01403; Recommendation to Revise Rule 7, Article II to Eliminate Reliance on ABA Accreditation for Law Schools 3 (Mar. 16, 2026) [hereinafter Skrmetti Comment] (concluding that, due to its "ideological advocacy," the ABA has "forsak[en] its high responsibility as an objective professional accrediting body, and has, as a result, squandered its credibility as an accreditor").

80 Whether the ABA's actions would still raise other concerns (e.g., constitutional, moral, etc.) is another question.

creditors existed, schools that wished to compete by offering a distinct, more affordable product could seek accreditation from those ABA alternatives. Competitive market forces could thus spur innovation in the stagnant market for legal education. And competition between accreditors could help to discipline attempts by the ABA to impose costs or ideological mandates that serve little educational purpose. Even the ABA's allies, including a former managing director for the ABA Council, recognize that alternative accreditors could offer valuable options to "[s]chools that think that the current ABA process is too expensive, too slow, too burdensome, or too intrusive on matters that should be left to schools to determine."[81] But no other law school accreditors exist, and the ABA's monopoly remains secure—shielded from competition, in part, by many states' delegations of authority to it.

Thankfully, the tide may be shifting. The Supreme Courts of Texas and Florida recently recognized the harm of provisions that expressly granted the ABA the sole authority to set minimum standards for eligibility to take their bar examinations. Both states modified their rules accordingly. Last year, the Texas Supreme Court determined that "the ABA should no longer have the final say on whether a law school's graduates are eligible to sit for the Texas bar exam,"[82] and on Jan-

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[81] Letter from Barry Currier to Justices of the Tx. Sup. Ct., Comments on the Court's Reliance on the ABA Law School Accreditation System 4 (June 23, 2025) (on file with Fed. Trade Comm'n). Mr. Currier "wr[o]te as the former Managing Director of Legal Education and Accreditation at the American Bar Association (2012–2020), which manages the law school regulatory process for the Council." *Id.* at 1.

[82] Preliminary Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Tx., ¶ 2, Misc. Dkt. No. 25-9070, 2025 LX 489157 (Tex. Sup. Ct. Sept. 26, 2025).

uary 6 issued an order "re-asserting its authority over the approval of law schools."[83] On January 15, the Florida Supreme Court similarly concluded that "it is not in Floridians' best interest for the ABA to be the sole gatekeeper deciding which law schools' graduates are eligible to sit" for the Florida bar examination, and it issued an order to encourage the entry of competing accreditors.[84]

This Court's Order showed that it is grappling with the same concerns. And it should come to the same conclusion. The ABA's standards for accreditation go beyond what is reasonably necessary to assure adequate preparation to practice law in Tennessee. Reliance on ABA accreditation likely causes Tennessee law schools to incur unnecessary expenses, which increases legal education costs and contributes to the Tennessee Bar admitting fewer qualified lawyers who could provide needed legal services to the public. The Court should act to reduce this reliance.

IV. We encourage the Court to expand the avenues for approval of non-ABA-

accredited law schools and promote the entry of alternative accrediting agencies.

Today, there likely are, unfortunately, no practical options to *fully* eliminate the Court's reliance on ABA accreditation. There are over 200 law schools in the United States, and the ABA accredits over 80% of

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[83] Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Tx., ¶ 6, Misc. Dkt. No. 26-9002, 2026 LX 95888 (Tex. Sup. Ct. Jan. 6, 2026) [hereinafter Tx. Sup. Ct. Order].

[84] In Re: Amendments to Rules Regulating the Fla. Bar and Rules of the Supreme Court Relating to Admissions to the Bar, at 2, Dkt. No. SC2025-2064, 2026 LX 27933 (Fla. Sup. Ct. Jan. 15, 2026) [hereinafter Fla. Sup. Ct. Order].

them.[85] It would be a substantial burden for the Court to replicate this work. Indeed, despite recognizing the excesses of ABA accreditation, the Supreme Courts of Florida and Texas reduced, but did not eliminate, their reliance on the ABA. In both states, ABA accreditation remains a sufficient condition for permitting a law school's graduates to take the bar examination. As an entrenched monopolist, the ABA currently has no meaningful competitors for the accreditation of most law schools.

There are, however, options for the Court to reduce its reliance on ABA accreditation and expand the opportunities for graduates of non-ABA-accredited law schools to take the Tennessee bar examination. The Court already enabled the Tennessee Board of Law Examiners to determine whether the education provided by unaccredited Tennessee law schools is sufficient to enable graduates to take the bar examination.[86] Currently, only one school has such approval.[87] The Court could potentially modify this program to make it easier for other law schools to obtain approval. In particular, the Court could enable the Board to grant approval to law schools without ABA accreditation located outside of Tennessee. And the Court could eliminate its direction that the Tennessee Board of Law Examiners

85 *See* ABA, Section of Legal Education and Admissions to the Bar, Council-Approved Law Schools (reporting that 198 law schools have ABA accreditation), https://www.americanbar.org/groups/legal_education/accreditation/ approved-law-schools (last visited Apr. 24, 2026); Law School Admission Council, Other Law Schools (listing 32 non-ABA accredited law schools in the United States), https://www.lsac.org/choosing-law-school/find-law- school/other-law-schools) (last visited Apr. 24, 2026).

86 Tenn. Sup. Ct. R. 7, §17.

87 *See supra*, note 26.

utilize educational standards similar to the ABA.[88]

The Court might benefit from processes that other states have implemented to approve unaccredited law schools. Several other states have rules or statutes that allow for approval of non- ABA-accredited law schools, including Alabama, California, Connecticut, Massachusetts, and Texas.[89] The Court could leverage these states' work to reduce its burden and expedite its approval process.[90]

The Court could potentially rely on these other states to quickly expand the supply of applicants eligi-

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88 Tenn. Sup. Ct. R. 7, § 17.02(a).

89 *See* Ala. Code § 34-3-2.1; Cal. Bus. & Prof. Code § 6060(e)(1); Tx. Sup. Ct., Order, *supra* note 83; State of Conn. Jud. Branch, Rules & Regulations of the Connecticut Bar Examining Committee, Art. II-1(B), https://ctbaradmissions.jud.ct.gov/regulations (last visited Apr. 27, 2026); Mass. Bd of Higher Educ., Academic Program Approval: Independent, New in Massachusetts, and Out-Of-State Institutions (describing authority to grant approval to institutions of higher education in Massachusetts), https://www.mass.edu/foradmin/academic/ independentprogramapproval.asp (last visited Apr. 27, 2026).

90 For example, like Tennessee, the California Committee of Bar Examiners can approve in-state schools, and graduates of these schools may sit for the bar exam. The California State Bar Board of Trustees has adopted standards for accreditation and rules governing this process. The State Bar of Cal., Rules of the State Bar, Title 4. Admissions And Educational Standards, Division 2, Accredited Law School Rules, https://www.calbar.ca.gov/legal- professionals/rules/rules-state-bar/title-4-admissions-and-educational-standards/division-2-accredited-law-school- rules (last visited Apr. 24, 2026). Currently nearly 20 non-ABA-accredited law schools have obtained this accreditation, accounting for approximately one-quarter of the students in California law schools. *See* The State Bar of Cal., California Law Schools: An Overview, https://publications.calbar.ca.gov/law-school-profile/overview- california-law-schools (last visited Apr. 27, 2026).

ble to take the Tennessee bar, while ensuring that they received an adequate legal education. For example, the Court could amend its rules to allow graduates of an unaccredited law school to take the Tennessee bar if the school is (1) approved by another state supreme court and (2) has an adequate bar passage rate in that state.[91] Other state supreme courts may follow with similar reciprocity and provide a more efficient pathway for unaccredited law schools to qualify their graduates for bar admission in multiple states.

Separately, in the longer run, new law school accreditation agencies might emerge to enhance competition by challenging the ABA's monopoly. The Court could look for ways to facilitate market entry. The Florida Supreme Court recently amended its rules to "create the opportunity for additional entities to carry out an accrediting and gatekeeping function."[92] The Tennessee Court could consider similar steps or offer other encouragement to potential new accreditors.[93] For example, the Texas Supreme Court expressed interest in utilizing "a multistate accrediting entity other than the ABA should a suitable entity become available."[94] As more states choose to reduce their reliance on ABA accreditation, new law school accreditors may seize the opportunity to enter and challenge the ABA's monopoly.

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91 The Court could retain the right to disallow any school, effectively providing a veto if it disagrees with the accreditation decision by another state or the ABA. *See* Purdue Global Comment, *supra* note 71, at 11.

92 Fla. Sup. Ct. Order, *supra* note 84, at 2, 7.

93 Attorney General Skrmetti suggests that the Court look to "new accrediting bodies, such as the Commission for Public Higher Education, [that] could expand their scope to include law schools." Skrmetti Comment, *supra* note 79, at 7.

94 Tx. Sup. Ct. Order, *supra* note 83, ¶ 6(f).

Other recent developments may enhance the odds that a new law school accreditor enters. Last April, President Trump issued Executive Order 14279, Reforming Accreditation to Strengthen Higher Education, to "reform our dysfunctional accreditation system so that colleges and universities focus on delivering high-quality academic programs at a reasonable price."[95] EO 14279 specifically directed the Department of Education to "resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes."[96]

The Department of Education has taken a series of actions to implement Executive Order 14279 and promote competition among accreditors. In May 2025, the Department issued a "Dear Colleagues" letter to higher education institutions that "re-establishe[d] a simple process" for switching accreditors, "that will remove unnecessary requirements and barriers to institutional innovation."[97] In late 2025, the Department of Education identified "Supporting the Creation of New Accrediting Agencies" and "Supporting Institutions in Changing Accrediting Agencies" as two "Absolute Priorities" for its grantmaking.[98] It awarded $14.5 million to fund new accreditors seeking

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[95] Exec. Order No. 14279, § 1, Reforming Accreditation to Strengthen Higher Education, 90 Fed. Reg. 17529, 17530 (Apr. 23, 2025).

[96] *Id.* § 3(b)(i).

[97] Dep't of Educ., Office of Postsecondary Education, Changes to the Approval Process for Changing Accrediting Agencies, at 3 (May 1, 2025), https://www.ed.gov/media/document/dear-colleague-letter-changes-approval-process- changing-accrediting-agencies-may-1-2025-109941.pdf.

[98] Dep't of Educ., Applications for New Awards; Fund for the Improvement of Postsecondary Education—Special Projects (FIPSE—SP), 90 Fed. Reg. 50861, 50864 (Nov. 12, 2025).

recognition and institutions seeking to switch accreditors.[99] In February, the Department reexamined its regulation requiring that "an agency seeking initial recognition . . . must have '[c]onducted accrediting activities . . . for at least two years prior to seeking recognition.' "[100] The Department explained that the resulting "cumulative four-to-five year timeframe" for recognition "creates a significant barrier to entry for new institutional accrediting agencies" and clarified that a variety of "accrediting activities" trigger the start of the two-year period to shorten the delay required for new entry.[101] Finally, and most notably, the Department initiated a broad negotiated rulemaking to "[s]implif[y] and streamlin[e] the Department's regulations for [] recognition and review of accrediting agencies."[102] That rulemaking is ongoing, and we look forward to its results.

We applaud these important changes and hope they lead to new accreditors that finally bring competition to law school accreditation. In the meantime, we en-

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[99] Katherine Knott, *The Trump Admin. Put $169M Toward Its Priorities. Here's Where the Money Went*, INSIDE HIGHER ED (Jan. 6, 2026), https://www.insidehighered.com/news/government/2026/01/06/new-accreditors-civic- discourse-programs-win-fipse-grants.

[100] Dep't of Educ., Regulatory Guidance Relating to the Criteria and Process for Initial Recognition of an Accrediting Agency, 91 Fed. Reg. 9709, 9709 (Feb. 27, 2026) (quoting 34 C.F.R. § 602.12(a)).

[101] *Id.* at 9709–11.

[102] Dep't of Educ., Intent to Establish Negotiated Rulemaking Committee, 91 Fed. Reg. 3403, 3404 (Jan. 27, 2026). The revisions will "emphasiz[e] criteria and standards requirements that effectively focus on student achievement and outcomes, high educational quality, and high-value programs and remov[e] criteria that are anti-competitive, discriminatory, or which contribute to credential inflation and escalating tuition costs." *Id.*

courage the Court to reduce its reliance on ABA accreditation and work with other states that recognize the harms that flow from the ABA's monopoly control of the legal education requirements for aspiring lawyers.

V. Conclusion

The Court wisely recognized that "rely[ing] heavily on accreditation by the [ABA] in establishing minimum educational requirements for applicants to the Bar" may "limit the supply of legal services and increase their cost."[103] While accreditation standards serve a purpose, the ABA goes far beyond what is reasonably necessary "to protect the public and to ensure competent representation."[104] Instead, the ABA's onerous requirements appear to protect the incumbent lawyers and university faculty who dominate the ABA and its accreditation body.

We urge the Court to take action to reduce its reliance on ABA accreditation and expand the pathways for law schools to obtain approval for their graduates to be eligible to take the Tennessee bar examination. The Court could, for example, change its rules to allow the Board of Law Examiners to approve unaccredited law schools located outside Tennessee. Or the Court could work with other states to encourage the entry of alternative law school accreditors. Such actions would help to undermine the ABA's monopoly and resulting power to impose costly, overly burdensome law school accreditation requirements. It is no coincidence that in its 1995 lawsuit challenging the ABA's anticompetitive conduct, the DOJ Antitrust Division stressed that the ABA's power over law schools comes, in part, from state mandates: "ABA approval is critical to the successful

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[103] Order, *supra* note 3, at 1, 2.

[104] *Id.* at 2.

operation of a law school" because the "bar admission rules in a large majority of states require graduation from an ABA-approved law school in order to satisfy the legal education requirement for taking the bar examination."[105] We commend the Court for scrutinizing its reliance on ABA accreditation and its interest in alternatives. We encourage other states to take similar steps to weaken the ABA's hold on its law school accreditation monopoly and bring us closer to genuine competition.

Sincerely,

/s/ Brendan Chestnut /s/ Daniel Guarnera Director Director Office of Policy Planning Bureau of Competition Federal Trade Commission Federal Trade Commission

/s/ Dina Kallay /s/ G. Charles Beller Deputy Assistant Attorney General Deputy Assistant Attorney General Antitrust Division Antitrust Division U.S. Department of Justice U.S. Department of Justice

/s/ Braden H. Boucek United States Attorney Middle District of Tennessee U.S. Department of Justice

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[105] Competitive Impact Statement, *supra* note 15, at 2.

PRESIDENTIAL ACTIONS

REFORMING

ACCREDITATION
TO STRENGTHEN

HIGHER

EDUCATION

Executive Orders

April 23, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section1. Purpose. A group of higher education accreditors are the gatekeepers that decide which colleges and universities American students can spend the more than $100 billion in Federal student loans and Pell Grants dispersed each year. The accreditors' job is to determine which institutions provide a quality education — and therefore merit accreditation. Unfortunately, accreditors have not only failed in this responsibility to students, families, and American taxpayers, but they have also abused their enormous authority.

Accreditors routinely approve institutions that are low-quality by the most important measures. The national six-year undergraduate graduation rate was an alarming 64 percent in 2020. Further, many accredited institutions offer undergraduate and graduate programs with a negative return on investment — almost 25 percent of bachelor's degrees and more than 40 percent of master's degrees — which may leave students financially worse off and in enormous debt by charging them exorbitant sums for a degree with very modest earnings potential.

Notwithstanding this slide in graduation rates and graduates' performance in the labor market, the spike in debt obligations in relation to expected earnings, and repayment rates on student loans, accreditors have remained improperly focused on compelling adoption of discriminatory ideology, rather than on student outcomes. Some accreditors make the adoption of unlawfully discriminatory practices a formal standard of accreditation, and therefore a condition of accessing Federal aid, through "diversity, equity, and inclusion" or "DEI"-based standards of accreditation that require institutions to "share results on diversity, equity, and inclusion (DEI) in the context of their mission by considering . . . demographics . . . and resource allocation." Accreditors have also abused their governance standards to intrude on State and local authority.

The American Bar Association's Council of the Section of Legal Education and Admissions to the Bar (Council), which is the sole federally recognized accreditor for Juris Doctor programs, has required law schools to "demonstrate by concrete action a commitment to diversity and inclusion" including by "commit[ting] to having a student body [and faculty] that is diverse with respect to gender, race, and ethnicity." As the Attorney General has concluded and informed the Council, the discriminatory requirement blatantly violates the Supreme Court's decision in Students for *Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). Though the Council subsequently suspended its enforcement while it considers proposed revisions, this standard and similar unlawful mandates must be permanently eradicated.

The Liaison Committee on Medical Education, which is the only federally recognized body that accredits Doctor of Medicine degree programs, requires that an institution "engage[] in ongoing, systematic, and focused recruitment and retention activities, to achieve mission-appropriate diversity outcomes among its students." The Accreditation Council for Graduate Medical Education, which is the sole accreditor for both allopathic and osteopathic medical residency and fellowship programs, similarly "expect[s]" institutions to focus on implementing "policies and procedures related to recruitment and retention of individuals underrepresented in medicine," including "racial and ethnic minority individuals." The standards for training tomorrow's doctors should focus solely on providing the highest quality care, and certainly not on requiring unlawful discrimination.

American students and taxpayers deserve better, and my Administration will reform our dysfunctional accreditation system so that colleges and universities focus on delivering high-quality academic programs at a reasonable price. Federal recognition will not be provided to accreditors engaging in unlawful discrimination in violation of Federal law.

Sec.2. Holding Accreditors Accountable for Unlawful Actions. (a) The Secretary of Education shall, as appropriate and consistent with applicable law, hold accountable, including through denial, monitoring, suspension, or termination of accreditation recognition, accreditors who fail to meet the applicable recognition criteria or otherwise violate Federal law, including by requiring institutions seeking accreditation to engage in unlawful discrimination in accreditation-related activity under the guise of "diversity, equity, and inclusion" initiatives.

(b) The Attorney General and the Secretary of Education shall, as appropriate and consistent with applicable law, investigate and take appropriate action to terminate unlawful discrimination by American law schools that is advanced by the Council, including unlawful "diversity, equity, and inclusion" requirements under the guise of accreditation standards. The Secretary of Education shall also assess whether to suspend or terminate the Council's status as an accrediting agency under Federal law.

(c) The Attorney General and the Secretary of Education, in consultation with the Secretary of Health and Human Services, shall investigate and take appropriate action to terminate unlawful discrimination by American medical schools or graduate medical education entities that is advanced by the Liaison Committee on Medical Education or the Accreditation Council for Graduate Medical Education or other accreditors of graduate medical education, including unlawful "diversity, equity, and inclusion" requirements under the guise of accreditation standards. The Secretary of Education shall also assess whether to suspend or terminate the Committee's or the Accreditation Council's status as an accrediting agency under Federal law or take other appropriate action to ensure lawful conduct by medical schools, graduate medical education programs, and other entities that receive Federal funding for medical education.

Sec.3. New Principles of Student-Oriented Accreditation. (a) To realign accreditation with high-quality, valuable education for students, the Secretary of Education shall, consistent with applicable law, take appropriate steps to ensure that:

(i) accreditation requires higher education institutions to provide high-quality, high-value academic programs free from unlawful discrimination or other violations of Federal law;

(ii) barriers are reduced that limit institutions from adopting practices that advance credential and degree completion and spur new models of education;

(iii) accreditation requires that institutions support and appropriately prioritize intellectual diversity amongst faculty in order to advance academic freedom, intellectual inquiry, and student learning;

(iv) accreditors are not using their role under Federal law to encourage or force institution to violate State laws, unless such State laws violate the Constitution or Federal law; and

(v) accreditors are prohibited from engaging in practices that result in credential inflation that burdens students with additional unnecessary costs.

(b) To advance the policies and objectives in subsection (a) of this section, the Secretary of Education shall: (i) resume recognizing new accreditors to increase competition and accountability in promoting high-quality, high-value academic programs focused on student outcomes;

(ii) mandate that accreditors require member institutions to use data on program-level student outcomes to improve such outcomes, without reference to race, ethnicity, or sex;

(iii) promptly provide to accreditors any noncompliance findings relating to member institutions issued after an investigation conducted by the Office of Civil Rights under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) or Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq.*);

(iv) launch an experimental site, pursuant to section 487A(b) of the Higher Education Act of 1965 (20 U.S.C. 1094a(b)), to accelerate innovation and improve accountability by establishing new flexible and streamlined quality assurance pathways for higher education institutions that provide high-quality, high-value academic programs;

(v) increase the consistency, efficiency, and effectiveness of the accreditor recognition review process, including through the use of technology;

(vi) streamline the process for higher education institutions to change accreditors to ensure institutions are not forced to comply with standards that are antithetical to institutional values and mission; and

(vii) update the Accreditation Handbook to ensure that the accreditor recognition and reauthorization process is transparent, efficient, and not unduly burdensome.

Sec.4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals. (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP
THE WHITE HOUSE,
April 23, 2025.

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Alabama cuts ABA Legal Ed council from bar licensure process LEGAL EDUCATION

Alabama cuts ABA Legal Ed council from bar

licensure process

BY JULIANNE HILL

MAY 5, 2026, 10:32 AM CDT

The Alabama Supreme Court recently voted to change its rules for admissions to the bar that downgrades the involvement of the council of the ABA Section of Legal Education and Admissions to the Bar, following moves in recent months by Florida and Texas to pull away from the national law school accreditor.

The Alabama order, issued April 30, scratched the need to eliminate graduation from an ABA-accredited law school to take the state's bar exam. Starting Jan. 1, 2027, graduates of the state's five law schools—three that are ABA accredited and two that are not—can take the state bar exam, as well as graduates of out-of-state law schools, as long as they qualify to do so in their home jurisdictions.

This differs by the moves by the Florida Supreme Court and the Texas Supreme Court, which killed their reliance on accreditation of law schools by the ABA council, a separate and independent entity from the bar association that is recognized by the U.S. Department of Education as the sole accrediting body for law schools. Both states created their own lists of approved law schools that continue to recognize ABA-approved law schools.

In Alabama, according to the Law School Docket blog, graduates must have completed a three-year program, potentially eliminating those who attended accelerated programs, and meet all the requirements of the state of the law school, such as taking the "baby bar" for graduates of unaccredited California law schools.

On April 30, the Federal Trade Commission wrote to the Tennessee Supreme Court to also open its law school accreditation to competition. It echoes the sentiments of a letter that the FTC recently sent to the Texas Supreme Court.

Like Tennessee, the Ohio Supreme Court is currently reevaluating ABA accreditation.

"A national accreditor is in the best interests of law students, law schools, states and the profession," said Daniel Thies, the chair of the council of the ABA Section of Legal Education and Admissions to the Bar, in a statement. "Council accreditation continues to be the gold standard in legal education, as it ensures that accredited law schools have a quality program of legal education capable of qualifying students for admission to the bar and, ultimately, producing competent, ethical lawyers to serve the public's legal needs."

The states' moves follow the Trump administration's April 2025 executive order aimed at higher education accreditors—specifically referencing the council—that mandates the dismantling of diversity, equity and inclusion efforts or risk federal funding cuts.

After that, the council suspended Standard 206 until Aug. 31, 2026, and discussed entirely eliminating the standard as it launched a comprehensive review of its standards at its quarterly meeting in November. Taking action on the DEI-related standard is on the council's meetingagenda for May 15. FTC Urges Tennessee Supreme Court to

Oppose the ABA's Law School Accreditation Monopoly

May 1, 2026

Federal Trade Commission staff urged the Tennessee Supreme Court yesterday to open law school accreditation to competition by reducing its reliance on the American Bar Association (ABA) in determining which law schools provide sufficient education for their graduates to take the Tennessee bar examination. The letter was joined by the U.S. Attorney for the Middle District of Tennessee and officials at the Department of Justice, Antitrust Division.

Responding to the court's invitation to comment on whether it should "modify, reduce, or eliminate" its reliance on the ABA, the letter recommended reforms to the current process. Drawing on decades of enforcement, advocacy experience and commentary from legal scholars in the areas of accreditation and occupational licensing, the letter detailed the competitive harms of granting professional or trade associations the authority to restrict competition among themselves or limit the ability of others to enter the profession.

The letter explained that the ABA standards for law school accreditation impose an elitist model of legal education, driving up the cost of legal education and thereby limiting the supply of lawyers. This reduction in the supply of legal services serves the anticompetitive interests of the lawyers who dominate the ABA membership, while undermining the interests of consumers seeking affordable legal services.

President Donald Trump issued an executive order last April that highlighted the need to "reform our dysfunctional accreditation system" in higher education to promote "high-quality, high-value academic programs focused on student outcomes." Recently, the Florida and Texas Supreme Courts eliminated their express reliance on the ABA and encouraged potential new accreditors to enter the field.

The letter encouraged more states to take similar steps to reduce their reliance on ABA accreditation of law schools.

The Commission vote authorizing the issuance of the staff letter was 2-0. The Federal Trade Commission works to promote competition, and to protect and educate consumers. The FTC will never demand money, make threats, tell you to transfer money, or promise you a prize. You can learn more about how competition benefits consumers, file an antitrust complaint, or comment on a proposed merger. For the latest news and resources, follow the FTC on social media, subscribe to press releases, and read our blog. Contact Information Media Contact Office of Public Affairs Office of Public Affairs 202-326-2180

APPENDIX F

Sworn Declaration of Robin E. Snyder,
Submitted in the District Court
Dist. Ct. ECF 30-2 (Feb. 14, 2025)

Sworn Declaration of Robin E. Snyder

I declare under penalties of perjury according to the law of the United States of America, that the following statements are true and accurate:

1. My name is Robin Elizabeth Snyder, I live in Tempe, Arizona.
2. I am an individual member of LFRA.
3. I graduated from Arizona State University (ASU) in 1994 with a Master of Business Administration and subsequently earned my Master of Architecture from ASU in 1996. I began working in the architecture industry preparing architectural specifications and contract documents and I started my own architectural consulting company, Spectra Consulting, LLC (formerly "The Treston Group, LLC") in 2001.
4. The preparation of specifications and contract documents requires a deep understanding of the law, and I realized that obtaining a law degree and admission to the bar would significantly benefit both my clients and the broader architectural community.
5. Due to the demands of my growing business, I was unable to commit to the required full-time attendance at The Sandra Day O'Connor College of Law at Arizona State University. In 2007, I enrolled in the online JD Program at Concord Law School (Now Purdue Global Law School), which was approved by the State of California to grant the JD degree, although the school is not accredited by the ABA.
6. Access to the online program enabled me and my classmates to obtain a quality education that

would have otherwise been impossible or unaffordable. The program catered to working professionals from diverse backgrounds who could not attend full-time programs due to employment and financial constraints.

7. I passed the California First-Year Law Students' Examination on my first attempt in 2008. This exam is designed to filter out students who may struggle to complete the JD course requirements and pass the bar exam. It serves an initial gauge of a student's potential.
8. I graduated from Concord Law School *Cum laude* in 2011.
9. I passed the California Bar Examination on my first attempt in 2012 and I maintain an active license in good standing with the California Bar.
10. The completion of an online program, combined with passing the California Bar Exam while managing a small business, required exceptional discipline and commitment. Despite demonstrating my dedication and legal competence, I am currently unable to sit for the Arizona Bar bar and practice law in my home state of Arizona due to Arizona Supreme Court Rule 34(b)(1)(D).
11. I am writing to support the removal of Arizona Supreme Court Rule 34(b)(1)(D).
12. The current requirement that an applicant has graduated from an ABA accredited school limits Arizona attorneys to primarily younger people entering graduate school with little work experience, or the limited few professionals capable of committing themselves financially to full-time programs. Unfortunately, countless aspiring

attorneys from diverse cultures, economic demographics and professional backgrounds are excluded from sitting for Arizona because of these limitations.

13. A bar candidate must prove their competency to practice law by passing a bar exam, which demonstrates their understanding of the minimum threshold of knowledge for the profession. Once a candidate has demonstrated their minimum competency through passing the bar exam, regardless of the state, the requirement for graduation from an ABA-accredited school should no longer be a barrier to licensure in Arizona. The success of the candidate in passing a bar exam should be sufficient proof of their readiness to practice law or, at a minimum, sit for the bar exam in Arizona.
14. It is unreasonable to restrict access to the legal profession in Arizona based on outdated rules that don't align with our current digital and mobile society.
15. I have been preparing architectural specifications for over 30 years and consider myself an expert in this field. My extensive experience has given me a highly specialized understanding of architectural contract documents and the construction industry. After attending multiple ABA Forum on Construction Law events, I am confident that my unique expertise would be valuable to both potential legal clients and the legal profession.
16. The intent of the current rules is presumably to protect the public from incompetent attorneys and establish a minimum standard for practicing law. However, despite passing the California Bar exam

and developing my expertise over three decades, the current Arizona rules prohibit me from providing competent legal advice in the state. This restriction contradicts the very purpose of these rules, as it prevents qualified professionals from serving the public effectively.

Thank you for your time and consideration.

Respectfully Submitted on January 31, 2025

Robin Elizabeth Snyder
California Bar #283628