

ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

) No. R-21-0041

)

) **COMMENT OF ARIZONA**

Petition to Amend Arizona Rule of
Supreme Court 42, ER 1.2

) **ATTORNEYS FOR CRIMINAL**

) **JUSTICE (AACJ) IN SUPPORT OF**

) **PETITION TO AMEND ARIZONA**

) **RULE OF SUPREME COURT 42,**

) **ER 1.2**

Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, Arizona Attorneys for Criminal Justice (“AACJ”) hereby submits the following comment on the petition to amend Arizona Rule of Supreme Court 42, ER 1.2.

AACJ, the Arizona state affiliate of the National Association of Criminal Defense Lawyers, was founded in 1986 in order to give a voice to the rights of the criminally accused and to those attorneys who defend the accused. AACJ is a statewide not-for-profit membership organization of criminal defense lawyers, law students, and associated professionals dedicated to protecting the rights of the accused in the courts and in the legislature, promoting excellence in the practice of criminal law through education, training and mutual assistance, and fostering public

awareness of citizens' rights, the criminal justice system, and the role of the defense lawyer.

On behalf of its member attorneys, AACJ fully supports the proposed amendment of Ethical Rule 1.2 offered by the Petitioner. AACJ agrees that it is both important and appropriate to clarify the requirements and protections of Arizona lawyers as they negotiate the ethical minefield in our State's rapidly evolving marijuana laws and regulations. This proposed amendment strikes the right balance between the right to advise clients on matters of Arizona law while being mindful of other laws that might impact those clients' activities. AACJ also agrees with Petitioner that the addition of ER 1.2(e) would make any marijuana-specific explanatory comment unnecessary.

As the Petitioner notes, although Arizona has had some form of legalized marijuana since 2011, Arizona has yet to modify its ethical rules to permit attorneys to advise clients on how to obey state law without potentially facing disciplinary action. Such disciplinary action would be an absurd result, and in fact AACJ is unaware of any lawyer who has faced such discipline for providing correct advice about Arizona law. This fact alone proves that the current ER 1.2 is so unworkable that not even the State Bar follows it. The proposed addition of ER 1.2(e) is a sensible solution to the current problem.

Petitioner notes that two similar petitions had been filed in the past and denied without comment. *See* Petition at 13-14 (citing R-16-0027 and R-18-0009). AACJ supported both those petitions and submitted a comment in favor of the 2016 proposal.

Conclusion

For these reasons, AACJ requests this Court grant the petition to amend ER 1.2 by adopting ER 1.2(e).

DATED (electronically filed): May 2, 2022.

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By: /s/ David J. Euchner
David J. Euchner

Comment electronically mailed to:

Arizona Supreme Court Attorney Ethics Advisory Committee
Hon. Paul McMurdie, Chair
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