



*An Organization Of*

**AMERICANS FOR LEGAL REFORM**

February 24, 2005

Arizona Supreme Court  
Legal Document Preparer Program  
1501 West Washington, Suite 104  
Phoenix, AZ 85007

To Whom It May Concern:

We would like to thank the Arizona Supreme Court for the opportunity to comment on the proposed amendments to the Arizona Code of Judicial Administration § 7-208. HALT is a national nonprofit organization representing the interests of consumers of legal services by working to make the civil justice system more accessible and accountable to those consumers. As part of this mission, HALT advocates that consumers have access to a continuum of legal services to meet a range of legal needs. The proposed amendments would disrupt this continuum of legal services by unnecessarily increasing the difficulty of using a legal document preparer. We therefore urge the Court on behalf of our 50,000 members nationwide (including over 1,000 in Arizona) not to adopt the proposed amendments.

Two-and-a-half years ago, HALT submitted comments to the Court regarding the establishment of regulations governing the legal document preparer industry. In those comments, we noted that the establishment of this system was based on very little evidence of problems under the existing system. Essentially, a small number of complaints brought against LDP's were used as justification for establishing a complex regulatory framework.<sup>1</sup> Now that this regulatory framework has been in place for less than two years, the Board of Legal Document Preparers is again suggesting a change without a demonstrated need. Without evidence that the current written examination for LDP certification is inadequate, the Board is proposing a new examination standard.

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<sup>1</sup> In its petition regarding the establishment of the Board of Legal Document Preparers, the State Bar of Arizona referred, without documentation, to having received 400 complaints against LDP's in 2000. *State Bar of Arizona Petition To Amend Supreme Court Rule 31 and To Add Rules 32, 76-80, Supreme Court No. R-02-0017*, p. 3, (April 30, 2002). In contrast, the State Bar received 2,524 complaints against lawyers in the same year. Center for Professional Responsibility, American Bar Association, *Survey on Lawyer Disciplinary Systems*, p. 1 (2002).

The current examination consists of “a written knowledge test of rules of the supreme court relating to legal document preparers,” that is, a test of whether LDP’s know the law governing their profession. The proposed new examination would consist of “a written knowledge test of the minimum knowledge, skills and abilities required for legal document preparation.” This vaguely defined expansion of the examination gives far too much discretion to the board and could result in LDP’s being tested on substantive legal concepts, not just on the rules governing their profession. The certification examination should not become a miniature bar exam. Since LDP’s are merely preparing documents, not practicing law, it is unnecessary for them to be tested on the law of wills or real property in the same way that lawyers are.

Making the standard for LDP certification unnecessarily high will be a great detriment to consumers. A higher certification standard will cause many people to drop out of the profession, either because they do not receive a high enough score on a test that is irrelevant to their work, or because they opt out of the profession rather than take an exam that is unduly onerous. In any event, with fewer LDP’s to serve them, consumers will more often be forced to use high-priced attorneys or take on legal matters themselves, when they may be unable to afford the former and not sure of their ability to do the latter.

HALT has often pointed to Arizona’s legal document preparer system for years as a paradigm for other states to follow. Its relatively minimal regulation has made it a model of consumer-friendliness. We urge the Supreme Court to reject this amendment, which would harm Arizona’s reputation as one of the leaders in user-friendly legal services.

Sincerely,

Thomas M. Gordon  
Senior Counsel