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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND ARIZONA
CODE OF JUDICIAL CONDUCT
RULE 2.6 (ENSURING THE
RIGHT TO BE HEARD)**

Supreme Court No. R-24-0006

**Comment of the Arizona
Commission on Judicial Conduct**

The Arizona Commission on Judicial Conduct (“Commission”) files this comment in support of the petition filed by the Arizona Commission on Access to Justice to amend Rule 2.6 of the Arizona Code of Judicial Conduct by adding a comment to provide additional guidance on permissible actions a judge may take in ensuring a self-represented litigant’s right to be heard.

**THE PROPOSED COMMENT WILL PROVIDE JUDICIAL OFFICERS
NEEDED GUIDANCE**

As noted in the SCOPE section of the Code, the canons in the Code set forth the overarching principles of judicial ethics to be observed by judicial officers, the

rules provide the black-letter law, and the comments provide interpretation and guidance.

Under Arizona law, self-represented litigants are held to the same standard as attorneys, and Rule 2.2 of the Code requires a judge to “. . . uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.” Comment 4 to Rule 2.2 notes, “It is not a violation of this rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.” With the ever-increasing number of self-represented litigants in court, judges can struggle with their obligations under this rule and question how far they can go in making accommodations to ensure a self-represented litigant has their matter fairly heard. The proposed additional comment to Rule 2.6 provides much-needed guidance on the permissible actions a judicial officer can take in fulfilling a self-represented litigant’s right to be heard. Such actions include “liberally construing pleadings; providing brief information about the proceeding and evidentiary and foundational requirements; modifying the traditional order of taking evidence; attempting to make legal concepts understandable; explaining the basis for a ruling; and making referrals to any resources available to assist the litigant in preparation of the case.”

The majority of the complaints received by the Commission come from self-represented litigants who turn to the Commission over frustration with court

processes and judicial actions they do not understand and cannot afford to have a lawyer explain to them. The Commission routinely sees complaints in which self-represented litigants complain about their filings being rejected for lack of technical perfection, not understanding how a hearing would proceed, and that a judge denied or dismissed a particular motion, petition, or proceeding without explanation. The latter tends to breed mistrust in the public who perceive a bias against them through the unexplained adverse rulings, and this diminishes public confidence in the judiciary.

The Commission is in favor of the proposed commentary to Rule 2.6 as it aligns with the access to justice initiative and follows best practices on judicial ethics. The Commission hopes that by judicial officers following this guidance, it may reduce the number of complaints filed by self-represented litigants if they have a greater knowledge of the underlying court and litigation processes and a better understanding of the reasoning behind a judge's ruling.

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CONCLUSION

For the foregoing reasons, the Commission on Judicial Conduct respectfully requests the Supreme Court adopt the petition and add the proposed commentary to Rule 2.6 of the Code.

SUBMITTED the 29th day of March, 2024.

/s/ April P. Elliott
Executive Director
Commission on Judicial Conduct

Electronic copy filed this 29th day of March, 2024.

By: April P. Elliott