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[Co-authored and endorsed]

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Re: *Emergency Rule Modification; Application R23-007*

On January 4, 2023, the Honorable Bruce Cohen, at the time, Presiding Judge of Maricopa County Superior Court - Division of Family Court, submitted to the Rules Committee a significant proposal to substantially apply amendments to Rule 44.1(c), 45(c), and 78(g) under Application - R23-0007

From the submission date to April 24, 2024, this Application appears to have remained publicly accessible information, an almost dormant stage, with very little [if any] public feedback of its progress, interviews, or even a clear and concise understanding of why the proposal is necessary. Let alone what the benchmarks are, what is being employed to measure if it is a success, when are there scheduled reviews, etc.?

It appears, as has been a historic and unfortunate theme with these "Cloak of Secrecy" proposals, quietly ran through subcommittees without the day of light "public" ever being made of these "public policy" changes. This [application goes here]. In its current form, it appears ripe to allow various cross-section governmental entities [and others] to reach various 'legal' interpretations, opening the door for substantial and potentially severe unintended consequences or even exploitation as instruments from what it alleged designed intent.

Established History of Concern.

COBS.

The Honorable Bruce Cohen, a Judge and a close business partner of his, Professor Ira Elleman, created a completely unvetted, non-previewed Child Support Model. In a similar appearing scheme of secrecy, or at least from the general public purview, Judge Bruch Cohen and Professor Ira Elman were using a Family Court committee as a venue to push this Child Support Model named

COBS. The model was unvetted, and the Bruch Cohen Committee was almost

successful in having this model, devoid of vetting, benchmarks, or review, passed and employed as a Child Support Model in the State of Arizona. There was incredible anger expressed by Judge Bruce Cohen when the Public started making inquiries into this COBS scheme.

The Judge strongly communicated in various Committee hearings, including to the AJC, that his COBS model was incredibly thoroughly vetted, professional, and prevailing and that it had the potential to be used Nationwide, but Arizona could lead the way. Ultimately, it became a legislative issue where there were straightforward concerns by the general Public that the actual structure of this
COBS model was inexcusably flawed and highly problematic to the Parties and their children. Simply put, the math did not add up, and once quasi-type experts dug into the flawed design, the proposed model had to be abandoned by the Arizona Supreme Court, as legislation was in the works to prevent its damaging implementation on the public. However, if it was not for the Public, that COBS scheme could have been Ordered against the Public, and that problematic child support model could have been a nightmare for the efficient running of the Judiciary, *viz*, Family Court.

However, even after the COBS scheme was determined to be structurally flawed, the pursuit of approval was not hindered by its creators. Regardless, the Arizona legislatures should have first reviewed the Model since it was a huge Public Policy issue. Unfortunately, it appears that active efforts were taken to prevent it from being reviewed by the Legislatures before its passing at the Arizona Supreme Court. The Honorable Bruce Cohen and Professor Ira Illman avidly
stood by this flawed COBS concept. A model the Judge communicated the Arizona Supreme Court has wrong. Yet he and Ira Illman were free to submit it to any of the other 49 Statutes, U.S. Territories, or even Internationally. However, for unknown reasons, neither of them did. This did not stop Professor Ira Elman from lashing out harshly against the Public for contesting his unvetted Child Support model and seeking accountability from their Judiciary.

In 2012, after the Arizona Supreme Court through the AJC declined to allow COBS to move forward, as still incensed Professor Ira Elman authored a scathing rebuke to the General Public rallying against the expansionism of Government through sub-committees in the secrecy of fellow government employees, under the cover of darkness (basement of the Arizona Supreme

Court), with little to no public review of this very dynamic and complex child support model with no legislative

authority to employ on the citizens of Arizona. In the Review: ***A Case Study In Failed Law Reform: Arizona Child Support Guidelines***[1]. ("Study").

In a furiously distorted display of disrepute to the Public's interest in Public Policy that could disastrously affect their lives, and their respective children's lives, the Professor issued this prejudicial and exclusive Study to continue his disgust in the Public successfully seeking accountability of a program he was so assured would pass in the Cloak of Secrecy in the basement rooms of the Arizona Supreme, instead of at a legislative body, where it can truly be vetted and the public having a say. In the Study Report, the Professor, without credible evidence or proof, heedlessly accuses the Public of the following: *There is no doubt that COBS opponents thought the guidelines unfair, and they were effective in making their opposition known during the final stages of the process*; **2**. *All they did know was that nearly all those who came to public hearings on COBS opposed it*; **3**. *The COBS opponents, on the other hand, were almost all male child support obligors*[2]; **4**. *The Fathers' Rights group formed a community united by the goal of defeating COBS*[3]; **5**. *The Committee Chair who sponsored the legislation killing COBS made clear . . . all that mattered was who they chose to believe: COBS opponents, or the Committee the Arizona Supreme Court had appointed to do the work. The answer was the opponent*[4]; **6**. *The anti-tax Tea Party movement, perhaps now in retreat, was at its strength during the time COBS was debated, and has many sympathizers among the Republican Legislators who commanded a lopsided legislative majority*; **7**. *Legislators may have felt they knew the COBS proposal came from people who were not their political allies, while its opponents where. N this climate, that alone may have been sufficient to defeat it*; **8**. *The GRC's membership may have contributed to this political problem because it did not include interest groups aligned with the legislative majority*. (Respectively Study Pg.|176, 177, 177, 179, 182, 186, 186, 186.).

[1] Arizona Law Review ("ALR") Vol. 54:137-2012.

[2] There was no evidence produced in the Study to factually support this statement as truthful, but a review of the record demonstrates that a diverse group of individuals, much closer to a cross-sectional representation of Arizonians were opposed to COBS compared to the exclusive committee appointee's of

the Arizona Supreme Court which mostly comprised of selected Judges, interested Lawyers, and a vested Professor.

[3] There were many groups fighting the unvetted, held in secret COBS process. There could have been a Fathers Rights Group, but if so, the cross sectional of Public representation deems it unlikely that the Study has this statement factually correct.

[4] In the Fall of 2019 – During an AJC Meeting the Arizona Supreme Court Chief Justice presented to the Committee that a recent study conveyed that less than 8% of the American/Arizonian public had meaningful confidence in the professional services rendered by the Judiciary to the general public. One cannot help but ponder if this and other issues are direct, substantial and meaningful examples of the low confidence rate.

The sophomoric indignation of the Author of the penned Study genuinely authenticated his agitation over Public input on a major policy occurrence. He blamed everyone but members of the GRC for overstepping the Cloak of Secrecy, and the limited powers of the Judiciary to leverage Rules as a binding statute. The failed attempt to employ a significant Public Policy 'COBS' in the basement of the Arizona Supreme Court is disingenuous to the necessity of Public input to public policy issues.

COBI.

In 2021, Then-Presiding Judge Bruce Cohen, who had many years in private Family practice and substantial and tenured time in the Family Court rotation, teamed up with yet another good personal friend and a frequently appointed Court Expert, at a needlessly exaggeratedly expensive burden to litigants, to unilaterally impose yet another unvetted, non-peer-reviewed model on the public. Those who proposed this failed Model did not fear professional accountability [or consequences] or worried about the stain of public impression they continued to exact on this institution. It was like they already knew the judiciary superiors were
not paying attention to the colossal blunder caused by those few identified people who supported the improperly pushing and employment of the unvetted COBI through the Arizona judiciary system. It leaves many concerned about the mindset and actual motives who created COBI using their professional position as leverage to impose this unvetted, violent, and toxic model on the general public with no warning, and how the general public can have confidence in their Judiciary when frequent acts like these continue to occur in this system.

COBI, at all times, was a secret and kept secret, maybe for the very reasons outlined by the Author of the Study. The vested person(s) in COBI knew that such a fleeting, money-generated model would not pass muster with an independent, professional peer review as a viably useful mental health reunification model in a Family Court setting, let alone anywhere else. So, with past experience, wanting to avoid public input. COBI was masterfully imposed on

Maricopa County Superior Court without permission from anyone other than those who felt their position of power and authority entitled them to decide it was best for the public without public review. Sadly and simply put, somehow, the Presiding Judge of the Family Court and a very established mental health provider of the Family Court unilaterally decided that rules, procedures, conflict of interest, professional etiquette, etc., did not apply to them at all. Besides the violently disturbing events COBI has brought, by exposing an ill-prepared Judiciary and others, COBI came into existence. Once again, based on the unfounded and entitled belief that one should impose

governmental expansionism on the public without review, it is more closely aligned with kingship.

COBI is a terribly structured mental health model that uses fear-mongering, threats of arrest, sanction, attorney fees, diminished legal decision-making rights, and parenting time as a punitive measure to force one parent to make the other parent the ability to exercise parenting time with their children, regardless of conduct. There is no evaluation of the kids, the parents, or the situation. It is a dangerously designed scheme where the COBI Experts advise the Court to allege both Parents are fit, even though the Court is clueless if both Parents are fit, and then provides the COBI proctors to have *Ex Parte* communications with the Judges. In turn, it has been found that very concerning abuses (mentally and physically to minor children) occur from some of the various proctors of this unvetted reunification model because of its highly toxic problematic design. However, these adverse results could have all been avoidable if COBI's creators respected the general public and the institutions they worked for or through instead of exploiting their authorities to run this gambit through the system they respectively had direct and substantial influence over.

In the Fall of 2023, the Arizona Supreme Court, for the first time, as acknowledged by the Arizona Supreme Court Chief Justice, was utterly unaware of what COBI was and how it was being employed. However, it is incredibly unfortunate because, once again, the general public was nothing more than in the way of the motivated creators of COBI. The general public, for months, had addressed the FCIC regarding the concerning behavior of the creators of COBI and how it was not thoroughly vetted. What made this situation worse was that the Chair of the FCIC acknowledged he had direct access to the Chief Justice of the Arizona Supreme Court. This means that an Appellate Justice willfully hides or withholds information from the Chief Justice from highly concerned people in

the public. The FCIC was specifically created to manage these types of problems. Instead it was exploited as a governmental ruse by the COBI creators.

Once again, just like COBS, the Committee was hiding or not presenting facts. COBI has not been officially explained to the general public to this very date. The manner in which COBI was forced into the judiciary process by vested participants and the profits it earned without proper peer could be viewed as an excessively damming centerpiece to the concerning erosion of confidence the General Public has in the Judiciary.

Rule 81.

Before we dive into the concerning attributes and how Rule 81 – Arizona Rules of Family Law Procedure has surfaced. We cannot deny the need to lay the foundation for how Rule 81 is a Rule override attempt, even after a similar Rule, Rule 74 – Arizona Rules of Family Law Procedure, was rejected by the General Public because, like COBI, it delegated super 'toxic' powers to 'for profit' inspired Experts. Rule 74, permitted the unilateral appointment of a 'for profit' entity by the Court. However, the appointees were found to have abused this authority, similar in fashion to the dramatically concerning conduct of certain COBI proctors, including its creator.

What is more alarming about Rule 81 is that Justice McMurdie has acknowledged in the FCIC (March 2, 2023, Agenda; Pg. 6 of 135), that the statute can and has historically stood on its own for decades without Court "Rule" intervention. Justice McMurdie explains to the exclusive FCIC Board, a Committee that was operating as a separate entity of the Supreme Court (regardless if it had the authority to do so), i.e., allowing the for-profit COBI scheme to thrive at the expense of litigants and children so its creators could financially profit at the emotional and physical detriment of minor children, the alleged Pole Star (*Hays v. Gama* [citation omitted]) of the Arizona Supreme Court and its inferior Tribunals. However, the FCIC was/is fully aware under the statutory scheme of A.R.S. § 25-410 *et al.* and respectively through *Paul E. v. Courtney F.*, 244 Ariz 46, 418 P.3d 413 (Div. 1 -2018), *Gish v. Greyson*, 253, Ariz. 437, 514 P.3d 937 (Div. 1-
2022), and its own case history, especially based on the cautionary concerns of Rule 74 having to be modified for abuse, that Rule 81 was not a necessary

instrument which would needlessly expand the Judiciary discretionary scheme through a Rule when the statute, was sufficient in providing intent.

However, and once again, we look and see the motivating factors in the presentation of Rule 81. Now, the Arizona Supreme Court, once again, expands its authority on Family Court cases far beyond the statute requirement as contained in the *Gish v. Greyson*, to cause potential exploitation by the Court and appointed Experts, as we already have seen when Rule 74 had to be modified down. Again, expanding cases to continue on for infinite times without closure because under this Rule, the Family Court can now keep a case open indefinitely, which we learned from COBS, COBI, Rule 74, and now Rule 81, usually means until the full exploitation and extraction of financial resources have been successfully exercised.

In a letter co-authored by Justice Peter B. Swann, Judge Sally Duncan, and attorney William Klain, submitted to the Arizona Supreme Court on April 27, 2015, these honorable mentioned expressed the following concerns about Rule 74, which has the same abuse for power markings in it as Rule 81: *And under A.R.S. § 25-403 and 25-403.01, the Court must assign legal decision making authority. And under A.R.S. § 25-403.02, the court must either approve or fashion a parenting plan. The Court's authority begins and ends with these two orders*; **2**. *The Court has the power to enforce and modify these orders, but nothing in the statutory scheme transforms the Court into a "super parent" with the authority, expertise, or resources to micromanage parenting decisions*; **3**. *By restricting itself [the Court] to the modest role created by statute, the Court avoids exaggerating the difference between children with married parents and children with single parents*; **4**. *Unfortunately, we have observed the emergence of a culture in Family Court in which this limited role of the Court is often forgotten*; **5**. *Many parents and attorneys, and even some Judges* [including Presiding Judges], t*ake the view that any disagreement among parents concerning their children is suitable fodder for judicial intervention*; **6**. T*his culture misapprehends the law and presents the Court with a task that their limited resources cannot handle*; **7**. *Again, the Court allocates decision-making among the parents – it cannot resolve every issue upon which the parents disagree*; **8**. *As the "**super parent**" view of Family Court has become more prevalent, so has the use of parenting coordinators*; **9**. *In Maricopa County, the fees for parenting coordinators range from $150.00 per hour to $400.00 per hour. Such rates are beyond the means of most pro per litigants, and the means even of those with*

above-average incomes; **10**. *We therefore submit that if Cours adhere to their limited statutory roles, the apparent need for parenting coordinators would be significantly reduced*; **11**. *Rule 74 [Now Rule 81 and COBI] should not implicitly or explicitly authorize such an expansion of the judicial role.*

The substantial rebuke of the needless expansionary powers of Rule 74 in 2015 was nothing but a bad pothole for those who had a stellar obligation to expand government powers and increase the profits for those intertwined with this type of expansionism. There is a profound example of balancing power, and the people involved in COBI, Rule 81, and now R23-0007, appear more geared to marketing new product lines to forcible sell to the general public through a scheme
called Rules and Court Orders. Again, the demising appreciation of the Judiciary by the general public, as noted by the Arizona Chief Justice, is loudly overlooked by those pushing, unharmoniously upon the general public, these highly flawed Rule changes and services.

SB1372.

As the author of the Study mentioned, he clearly alleged that the GRC did not have political connections, and the lack of such resulted in an adverse outcome for COBS. Although that statement was a conjectured position lacking any credible foundation, we would be remised not to think that the Supreme Court has operated, at the direction of certain exclusive members, against the best interest of the Public. The Supreme Court's refusal to align in-house good public policy or inform the legislatures of potential public policy issues that need to be managed by statute, not Rule. However, under COBS, COBI, Rule 74, and now Rule 81, that the expansionism of the Supreme Court's power with no balance checks is a resonating theme of concern that can be isolated to certain individuals that Courts have done nothing to circumvent their continued malicious conduct from within while having to constantly contend with the demise of its credibility with the general public based on those conducts of such as described above.

II.

Committee on Family Court.

The COFC is a committee that, for reasons the public is unsure of, arises after the recent closure of the FCIC. The FCIC went rogue against the general public and at the expense of the judiciary. The Committee Chair was fully aware that there was a Presiding Judge and a "for Hire" Expert frequently used by the Courts who created an *ex facto*, rule/policy, aka COBI. A for-profit scheme that has violently devasted families and children. The conflicts were undeniable. However, instead of the Chair of the FCIC being willing to ensure the integrity of the Judiciary, a concern communicated by the Chief Justice as failing, the Chair ignored this highly inappropriate and unethical conduct, turned a blind eye, and allowed the COBI system to victimize families and children. Next, he contributed to a Rule that he should have known was unacceptable expansive, and irresponsible profiting, which similar rules in the past were altered for the very type of verbiage Rule 81 currently contains.

COFC First Act.

The COFC has not even been properly formed or presented to the public, yet its first duty was to address Rule request R23-0007 on an Emergency basis where public comment is limited until May 1, 2024. On April 25, 2024, the

Honorable Bruce Cohen, for the first time to the Public has actually provided his understanding [but not motive] of what R23-007 is for. Judge Bruce Cohen alleged during this meeting, for the first time, that the Court has been in substantial contact with various school representatives, other entities, and [sic]. None of these meetings, conversations, or requests have ever been presented to the general public. On the surface and once again based on the following, in the Cloak of Secrecy, here we go again. A massive proposal with significant Rule and Order implications and absolutely no evidence to support a vetting process has been revealed. Once again like Rule 81, like Rule 74, like COBI, like COBS, it looks and feels like, from the public, that a Rule request was made in 2023, and then one year later with zero available information, and on an emergency basis, the public is required to submit their concerns about a Rule and the process which there is zero credible evidence, information, interview, purpose as to what this is needed for with any specificity or even generally speaking.

Conclusion.

WE THE PEOPLE, respectfully request the Arizona Supreme Court place a moratorium on this Rule, direct the COFC or, as appropriate, the Committee

where all of these people, entities, evidence, and communications that Judge Bruce Cohen communicated will be released to the public and then permit the Public to have meaningful communication and vetting of this concerning proposal. The manner that Rule 81, this Rule, COBI, and the conduct of the FCIC have to be challenged to ensure the integrity of the Judiciary is one of confidence, not the statistical demise the Chief of Justice of the Arizona Supreme Court expressed deep concern to. The above illustrates concerning behaviors, that can be corrected. It can be corrected by employing the right people on the COFC (preferably not the same people appointed over and over again for the same committee). Thus, we ask the Supreme Court to act accordingly and allow the public an opportunity to gain all information, as alleged by Judge Bruce Cohen, about this proposed Rule but which was never released to the public for review, consideration, or viable feedback.

Respectfully submitted by:

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