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6 IN THE SUPREME COURT

7 STATE OF ARIZONA

8 IN THE MATTER OF:

**R10-0001**

9 PETITION TO AMEND RULE  
10 26(b)(5), ARIZONA RULES OF CIVIL  
PROCEDURE

**MARICOPA COUNTY ATTORNEY'S  
COMMENTS TO PETITION TO  
AMEND RULE 26(b)(5), ARIZONA  
RULES OF CIVIL PROCEDURE**


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13 The Maricopa County Attorney's Office hereby supports the proposed amendment  
14 to Rule 26(b)(5) the Arizona Rules of Civil Procedure. The proposed amendment would  
15 make the disclosure of non-parties at fault, and the penalties for failure to make timely  
16 disclosure, more in line with other disclosure and pleading obligations imposed on the  
17 parties to litigation.

18 As the petition notes, there are many reasons why a party may only learn belatedly of  
19 a non-party at fault. Some reasons may be justified; others may not. The proposed  
20 amendment would give the trial court the discretion to apply judgment and consideration of  
21 prejudice to the parties to the facts of a particular case.

1 The Maricopa County Attorney's Office supports the Petition, and urges that the  
2 proposed rule amendment is consistent with the intent of the Legislature in enacting the  
3 Arizona version of the Uniform Contribution Among Tortfeasors Act.

4 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of May, 2010.

5  
6 RICHARD M. ROMLEY  
MARICOPA COUNTY ATTORNEY

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8 BY:   
9 PAUL W. AHLER  
Chief Deputy County Attorney

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