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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	Supreme Court No. R-10-0002
PETITION TO AMEND RULE 4.1, ARIZONA RULES OF CIVIL PROCEDURE)	Comment to Petition to Amend Rule 4.1, Arizona Rules Of Civil Procedure
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Pursuant to Rule 28(D), Rules of the Supreme Court, William Blankstyn respectfully submits this Comment for the Court's consideration.

I. Reasons Proposed Rule Amendments Should Not Be Adopted.

Service by first class mail ONLY is not acceptable "service". The issue of Notice(s) sent by first class mail has been repeatedly addressed by courts with decisions that first class mail is insufficient when it comes to service of process for civil cases (including traffic tickets). Proper service strikes at the heart of due process and should continue to be a key requirement for the Court to gain jurisdiction over a person. Rule 4.1 should not be changed and needs to stand as is.

The Arizona Appeals Court ruling (TONNER, v. PARADISE VALLEY MAGISTRATE'S COURT, 171 Ariz. 449; 831 P.2d 448; 1992 Ariz. App.), which declared void any attempt to impose a fine without personal service needs to stand.

Redflex has received formal notification from the Department of Public Safety that their contract will not be renewed. Last week's development that Governor Jan Brewer's administration has officially canceled the state contract that authorized Redflex Traffic Systems to issue automated freeway speeding tickets has now made this proposed rule change moot. With the concept of photo enforcement one step away from being eliminated entirely in Arizona, it is only sensible to refrain from rule changes relating to photo enforcement until continued existence of this photo fraud on our streets and highways is determined.

Even if the program does continue next year, a number of groups opposed to photo enforcement have succeeded in getting a referendum put to voters in November to effectively end photo enforcement in Arizona.

The fundamental failure of service by 1st class mail without personal service to meet anyone's concept of reasonable due-process procedures is one of the reasons I most strongly oppose this rule change. The Court has addressed the issue of service by mail. The petition contends in essence that when government decides to sue its citizens, safeguards are too expensive. Its argument proceeds, as such arguments must, by presuming defendants' guilt and moral unworthiness. The answer does NOT lie where a reduction of Rights of even the innocent, to reverse the real burden of going forward, and to base court jurisdiction on an assumption is repugnant to our judicial system. This change not only slams in the face of finding fairness and justice in the courts, but in the face of COMMON SENSE as well.

When the rule regarding civil service of process was created, the original authors recognized that service by first class mail is unreliable, since this delivery method does not guarantee that a person would receive the notice of the civil

complaint. We all know that mail gets misdirected or lost. As a result, people can be erroneously found responsible in civil cases by default, thus creating an unnecessary and unfair burden on both citizens and the Court.

This change allows private corporations, such as Redflex, and private individuals in the company's employ without law enforcement training, nor sworn to uphold the Constitution or our state's laws to perform law enforcement functions without sufficient checks and balances. Under this proposed revision, there would be nothing to prevent private interests from "manufacturing" traffic violations solely for the purpose of generating revenue.

We would not have any assurance that corporations such as Redflex actually sent out notices of civil cases. The end result is that regardless of how the claim is made, all the plaintiff would have to do is simply say "we sent out the notice by First Class Mail".

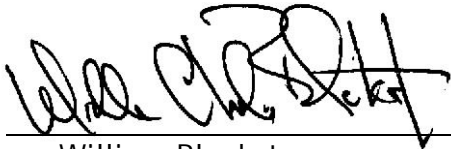
State documents reveal that Arizonans have outright rejected automated citations paying them just 26.8 percent of the time. The resulting impact on Redflex finances has been so severe that investors threw out the company's chairman for getting involved in the freeway ticketing venture that major shareholders called an "expensive failure." I reject the idea that the state should bail a foreign company out of its financial difficulties.

It has been widely reported that John Wintersteen, the petitioner, has close ties with Redflex, and that lawyers for Redflex actually prepared the petition for this proposed rule change. Why would the Arizona Supreme Court overturn 100 years of proper service because a private foreign company wants it to improve its' bottom line? A foreign company should not be re-writing Arizona law.

Although Redflex asserts that regular mail suffices for providing notice to ordinary citizens, its own contract documents forbid the use of ordinary mail when corresponding on official photo enforcement matters. Such notice may only be given by personal service, "certified mail, return receipt requested, postage and registry fees prepaid" or "a reputable overnight courier service, excluding the U.S. Postal Service".

Changing the "Service of Process" rule amounts to legal nonsense and metaphysical flimflam¹ proceeding under the de facto Delegation Doctrine.²

RESPECTFULLY SUBMITTED this 14th day of May, 2010.

By 

William Blankstyn
Former Arizona Process Server

¹ See Felix S. Cohen, Transcendental Nonsense and the Functional Approach, 35 Columbia Law Review, 809 (1935)

² For an introduction to the legal metaphysical Delegation Doctrine and its deployment in the "Land of the Fee and the Home of the Slave," one need go no farther than one of the works comprising the West Publishing Company's Hornbook Series, namely: Administrative Law, by Alfred C. Aman, Jr. and William T. Mayton, West Publishing Co., P.O. Box 64526, St. Paul, Minnesota 55164-0526.