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IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of: PETITION TO AMEND COURT RULES REGARDING SERVICE OF PROCESS OF NOTICE OF CLAIM UPON GOVERNMENT OFFICIALS	Supreme Court No. R-25-0048 **Comment in Opposition to Petition to Amend Rules 4.1, 4.2, and 5, and to Add Rule 4.3, Arizona Rules of Civil Procedure**

In accordance with Rule 28(d), Rules of the Supreme Court of Arizona, Arizona School Risk Retention Trust, Inc. (the "Trust") respectfully submits this Comment for the Court's consideration. The Trust is a non-profit risk-retention pool that provides liability coverage and related services to nearly 250 Arizona public school districts and community colleges.

Beyond the problems already addressed by the City of Scottsdale, the proposed amendments specific to notices of claim under A.R.S. § 12-821.01—filed outside of court before a civil action is commenced—would be unconstitutional and ineffectual because they (1) exceed the Court's "[p]ower to make rules relative

to all procedural matters ***in any court***," *see* Ariz. Const. art. VI § 5 (emphasis added), and (2) contradict the statute and subvert manifest legislative intent and Arizona precedent. Fundamentally, the Petition takes issue *not* with the court rules governing service of process in civil actions, but with the notice-of-claim statute and its filing requirement, which the Court lacks the power to change or regulate.

1. The Court lacks constitutional power to make rules regarding service of a notice of claim under A.R.S. § 12-821.01.

The Court's rulemaking authority comes from article 6, section 5 of the Arizona Constitution, which provides: "The supreme court shall have . . . [p]ower to make rules relative to all procedural matters in any court." The filing of a notice of claim under A.R.S. § 12-821.01 does not take place in court or relate to court procedure in any way, but "is a necessary *prerequisite* to filing a lawsuit against a public entity." *Donovan v. Yavapai Cnty. Cmty. Coll. Dist.*, 244 Ariz. 608, 610 ¶ 7 (App. 2018) (emphasis added).

Court rules are relevant to the notice-of-claim statute only because the statute specifies that a notice must be "file[d] . . . with the person or persons authorized to accept service for the public entity . . . as set forth in the Arizona rules of civil procedure." Ariz. Rev. Stat. § 12-821.01(A). Plainly, this statute does *not* authorize the Court to make rules specific to notices of claim—filed outside of court before a civil action is commenced—but only references the existing rules governing service of process in civil actions. In fact, the statute does not implicate

any court procedure because it does not reference "service," only *filing* with the person(s) authorized by the public entity to accept service of process. *Id.*

Yet, Petitioner proposes a new civil rule that "governs service of notices of claim *within the meaning of A.R.S. § 12-821.01*" (*see* Petition at 7, emphasis added), and even imposes *affirmative obligations* on public entities outside of court and irrespective of any civil action. Petitioner's proposed amendments specific to notices of claim under A.R.S. § 12-821.01 attempt to rewrite the statute and blatantly exceed the Court's rulemaking power, as well as the Rules' stated scope and purpose to "govern the procedure in all civil actions and proceedings in the superior court of Arizona." *See* Ariz. R. Civ. P. 1.

Respectfully, the statute's mere reference to the civil rules regarding service of process does not enable the Court to revise the statute or make rules or amendments specific to notices of claim or otherwise regulate the filing of such notices, much less impose affirmative obligations on public entities outside of court and before a civil action is even commenced.

2. The proposed amendments contradict A.R.S. § 12-821.01(A) and attempt to subvert manifest legislative intent and Arizona precedent.

By referencing the civil rules governing service of process, the Legislature expressed its intent that a claimant file a notice of claim under A.R.S. § 12-821.01(A) with the individual(s) at the public entity "authorized to accept service" of a summons and complaint in civil court. Yet, the Petition's proposed

amendments begin by attempting to disconnect those very service rules from the statute: "This rule shall not apply to service of an A.R.S. § 12-821.01 notice of claim." *See* Petition at 7.

Of course, the Legislature chose to specifically reference and incorporate the existing service rules in the statute. By proposing new rules specific to "service" of notices of claim, the Petition purely seeks to change the meaning and effect of the statute's reference to "the person or persons authorized to accept service for the public entity . . . as set forth in the Arizona rules of civil procedure." *See* Ariz. Rev. Stat. § 12-821.01(A). Manifestly, the Petition does *not* identify any problem with the service rules as applied in civil-court actions but claims that those same rules—which the Legislature chose to expressly incorporate into the claim-notice statute—are "ambiguous," "unforgiving," and otherwise insufficient as applied to notices of claim.

The Legislature, however, clearly intended to incorporate the existing, established rules regarding service of process and not create some future unknown rules specific to the filing of a notice of claim. Accordingly, the proposed amendments defeat the very purpose of the Legislature's reference to the established service rules. Moreover, the proposed amendments are inconsistent with this Court's repeated guidance that, to further the goals of the notice-of-claim requirements, "claimants must strictly comply with the statute." *See, e.g., City of*

Mesa v. Ryan, 258 Ariz. 297, 300 ¶ 9 (2024).

Contrary to Petitioner's unsupported suggestion, A.R.S. § 12-821.01(A)'s mere reference to the civil-court rules does not enable the Court to materially and purposely alter the meaning of the statute. Petitioner's objections to the statutory requirements must be addressed through the Legislature, not through inapplicable and unconstitutional rules of court procedure.

Finally, the proposed amendments controvert Arizona precedent in other respects. For example, the amendments require public entities to continuously publish information on their websites "on how a person may serve a notice of claim upon the public entity." But the Arizona Court of Appeals previously determined that "Public entities in Arizona are not duty-bound to assist claimants with statutory compliance."[1]

Conclusion

Respectfully, the proposed amendments regulating the filing of notices of claim under A.R.S § 12-821.01(A)—outside of court before a civil action is commenced—simply exceed the Court's constitutional "power to make rules relative to procedural matters in any court." *See* Ariz. Const. art. VI § 5. Regardless, the proposed amendments would contradict the very statutory requirement that makes rules of procedure potentially relevant and subvert the

[1] *Yahweh v. City of Phoenix*, 243 Ariz. 21, 23 (App. 2017).

Legislature's expressed intent that a claimant file a notice of claim with the individual(s) authorized by a public entity to accept service of a summons and complaint.[2]

For these reasons, this Court should deny the Petition.

RESPECTFULLY SUBMITTED this 22nd day of April, 2026.

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[2] The proposed amendments also impose illogical and impractical requirements uniformly on all public entities. As just one example, the amendments require all "public schools" to maintain a website "with a 'gov' top-level domain," even though Arizona school districts do not utilize a "gov" top-level domain for their websites.