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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-26-0048 REPLY TO COMMENTS TO PETITION
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Mr. Dalton-Webb submits this reply to the comments filed in this matter.

It is alleged that this rule violates due process of government defendants, that this requires the government to help notice of claim claimants pursue their claims, and it violates the intent and exceeds the authority of the judicial department. All of these allegations are not true, and are explained herein.

Even if Mr. Dalton-Webb did not present a perfectly composed proposal to this Court, this is a serious problem. The government victimizes poor people all the time, and the government intentionally dodges proper service of process—even well-educated litigants cannot overcome these issues—and they use these unfair rules of procedure against them to wholesale deny legitimate claims. John Simon¹ was a homeless man who had a claim against the City Of Phoenix’s police department for attempting to

¹ Simon v. Maricopa Med. Ctr., 225 Ariz. 55

murder him, and his claims were wholesale denied because he served the city clerk and city police department and did not go to the personal residence addresses of the police themselves.

This is not a problem for the Arizona Supreme Court to chalk off as “a cool idea”, letting a few special interest people from insurance companies gripe about touching the issue, and shelf this project—the Arizona Supreme Court needs to actually solve this issue, one way or another.

As is, with no rule changes, the only solution for The People to have against the government is for The People to start learning of the personal residence addresses of everyone in government—including police.

The opponents of this proposed rule change do not care about the due process of the people the government victimizes—that is why they intentionally do not publish on their websites as to who and where people can properly serve them with copies of notices of claims—what they want are easy “we never received the notice of claim” wins in court.

1. Due Process

This petition does not violate due process. Due process is given to all defendants when a lawsuit is filed and in court. A.R.S. § 12-821.01 is not intended for due process, it is intended for the government to be permitted to budget their liabilities and quickly

settle matters out-of-court. If a notice of claim said “demand for \$1 million because Officer Doe looked at me funny”, the government could deny or ignore the notice of claim, the claimant could file a lawsuit, and Officer Doe would get due process in court and the case would be dismissed. Due process happens with or without a notice of claim upon defendants—it happens in court.

If a defendant’s due process relies on a notice of claim, then every non-government defendant in Arizona has their due process rights violated any time someone files a lawsuit without filing a notice of claim first. This “due process” rhetoric is a fabrication based nowhere in law.

By keeping things the way they are, the claimants/plaintiffs have no due process. The defendants intentionally dodge service of notices of claims, the claimants/plaintiffs get no “try again” procedures for serving notices of claims, and the defendants get an easy dismissal in court on the non-merits of the claim.

2. Government Required to Help Claimants

It is alleged that this rule proposal requires the government to help claimants. It does not. Nowhere in this rule proposal does it require the government to give legal advice or write notices of claims for claimants. It simply requires the government to announce, in writing, to the public **WHERE** and **WHO** to send notices of claims to. If a claimant fails to do their own reading and research, it is on them.

This is no different than our Arizona corporate laws requiring that corporations announce to the world “the person who receives lawsuits”. In Arizona, we call these “statutory agents” and we require that corporations report statutory agent information to the Arizona Corporation Commission. Similar to this proposal, Arizona statutory agent laws do not require that corporations assist litigants.

3. Arizona Supreme Court Exceeding its Authority

It is alleged that the Arizona Supreme Court would exceed their authority by enacting this proposed rule change. If this were true, then the entire Notice of Claim statute (A.R.S. § 12-821.01) is unconstitutional because of separation-of-powers.

First, we need to look at the relevant Arizona Constitution provisions: Article 2 § 13; Article 3, Article 4 Part 2 § 18; and Article 6 § 5. Respectively and in order as listed: the state (all 3 departments of government) has an obligation to indigent to litigants, all 3 departments must be separate, the legislature enacts laws for suits against the state, and the Arizona Supreme Court has power over procedural rules in courts and “[s]uch other jurisdiction as may be provided by law”.

3a. Fairness to Indigent Litigants

Regardless of what A.R.S. § 12-821.01, A.R.S. § 39-123, and Rule 4.1 says, it must not prejudice financially indigent litigants. Currently, as written, these 3 statutes

and rules prejudice financially indigent litigants, as they have no remedy if they cannot readily find the personal residence addresses of the public employees. Most lawyers usurp this problem by hiring and paying up-front the cost of a private investigator (who is usually also a private process server) to find the personal residence addresses of the public employee and hand-delivering a physical copy of a notice of claim. Even then, for Rule 4.1(h)(4) governmental entity, even educated lawyers might have to guess who the person is to serve the notice of claim and hope that the defendant doesn't win a motion to dismiss. Again, there is no "try again" on a notice of claim, and defendants are not required to acknowledge proper receipt of a notice of claim, so the only way to find out if they properly served a defendant is when the court decides on a motion to dismiss, but by then it is already too late for a claimant to correct anything.

3b. Separation of Powers

The government alleges that this rule proposal somehow violates the separation-of-powers.

If this Court is to believe the opposition for this rule change that it is allegedly unconstitutional, then going further down that line of thinking, A.R.S. § 12-821.01 would also be unconstitutional. Article 4 Part 2 § 18 says "The legislature shall direct by law in what manner and in what courts suits may be brought against the state."

However, A.R.S. § 12-821.01 says, as relevant here, “persons authorized to accept service...as set forth in the Arizona rules of civil procedure...”. The legislature has directed by law in what manner suits may be brought against the state, but then does not fully self-contain the manner for suits within writings by the legislature, but rather pawns off prescribing the “manner” to the judicial department by stating “as set forth in the Arizona rules of civil procedure” in A.R.S. § 12-821.01. The constitution, under Article 4 Part 2 § 18, does not permit the judicial department to prescribe the “manner” of suits to be brought against the state, so the part about “as set forth in the Arizona rules of civil procedure” violates the Arizona Constitution. Further, the Arizona Supreme Court has not volunteered to have jurisdiction over rules of service of notices of claims, see Rule 1: “These rules govern the procedure in all civil actions and proceedings IN THE SUPERIOR COURT of Arizona.” (emphasis added).

Under this theory, the legislature has not prescribed anyone to receive service of notices of claims on behalf of anyone because A.R.S. § 12-821.01 refers to a dead-end. Under strict reading of Rule 1 and Article 4 Part 2 § 18, the legislature needs to prescribe WHO receives notices of claims for every single entity and employee in this state—from the governor down to obscure taxing districts. Further, that means all of these dismissals for non-service have been incorrect. Mr. Dalton-Webb admits that this is a novel concept. Mr. Dalton-Webb has not seen any case law in Arizona that affirmatively admits that it is the opinion of the judicial department that the judicial department has

actual jurisdiction over settings rules of procedure of notices of claims because notices of claims are an out-of-court proceeding and the Arizona Supreme Court has not explicitly volunteered jurisdiction over these proceedings (see Rule 1). It has also not been established whether or not the judicial department acknowledges whether or not A.R.S. § 12-821.01, A.R.S. § 39-123, and Rule 4.1, when read together, unconstitutionally prejudice indigent litigants when it comes to **SERVICE** of notices of claims (emphasis added). Instead of arguing who has what authority and prejudicing indigent litigants, it would be easier and less litigious if the Arizona Supreme Court had made rules that simply made sense for out-of-court proceedings.

The Arizona Supreme Court could fix this problem by amending Rule 1 and/or accepting Mr. Dalton-Webb's rule petition by voluntarily accepting jurisdiction over rules of procedure over notices of claims. Article 6 § 5 ¶ 6 of the Arizona Constitution permits the Arizona Supreme Court to have "Such other jurisdiction as may be provided by law.". A.R.S. § 12-821.01 already gives the Arizona Supreme Court the authority to make rules to determine who is authorized to accept service of a notice of claim on defendants. Further, the Arizona Supreme Court has jurisdiction over itself—when a claim gets denied out-of-court, it is then appealed to an Arizona court, which is under the jurisdiction of the Arizona Supreme Court. It was alleged that the proposed rule change required the government affirmatively do things. Admittedly, the Arizona Supreme Court does not have legislative jurisdiction over anyone in Arizona. This

proposal does not require affirmative action. However, if a defendant is alleging that a claimant failed to abide by a procedure based on a technicality from Arizona (court) Rules of Civil Procedure—an out-of-court action—and that is the basis for an in-court dismissal, it is fair to look into the defendant’s out-of-court actions that prejudiced the claimant from complying with the rules of procedure. The defendants can choose not to move to dismiss for non-service of a notice of claim just as much as the defendants could choose not to do anything to notify the public ***WHO*** and ***WHERE*** to serve the government with a notice of claim. This is a problem of the government’s own (and intentional) making.

The legislature has primed the Arizona Supreme Court to fix this issue. Back in 1956, the notice of claim statute² said “...in the same manner as that prescribed in the Arizona Rules of Civil Procedure Rule 4(D)...” which is now amended to “as set forth in the Arizona rules of civil procedure”. This shows that the legislature intended to the Arizona Supreme Court more power over rules of procedure over notices of claims.

Nowhere in A.R.S. § 12-821.01 does it say “strict compliance”. This was purely a judicial fabrication. In fact, A.R.S. § 1-211 says the opposite of this “strict compliance” doctrine.

4. Public Records and Alternative Service

² Notice of claim statute was A.R.S. § 12-821

It is alleged, in Luis E. Santaella's comments, that fixing this issue, for litigants, is as simple as finding information, coordinating seeing them in-person, and filing Rule 4.1(k) Motion for Alternative Service. This entire discussion from Santaella is a confusion campaign to this Court.

Santaella is suggesting that litigants do mental gymnastics to come up with complex legal theories and execute them within 180 days.

Firstly, she states that "A.R.S. § 39-123...does not prevent access to work addresses, duty stations, or other information sufficient to effect service," suggesting that persons who are trying to serve a notice of claim should obtain that information from public records requests. Firstly, public records law is only as good as the government who responds to them. Sure, someone could file a public records request and literally say:

"Pursuant to Public Records Law, I hereby request: (1) the work address, (2) duty station, (3) and other information sufficient to effect service"

and here's what the government will say:

"Your request has been added to the queue. Your ticket number is #10001. We have a high volume of requests, and process the requests in the order it was received."

also here's what the government also would say:

"(1) no responsive records were found; (2) no responsive records were found; (3) we cannot give legal advice, no responsive records were found and we are not required to create or compile records".

There is no set deadline for the government to give people public records. Nowhere in statute does it specifically require that the government create records as to where a public employee's duty station is. When someone does a public records request, the request likely goes to some clerk who has never sat in a courtroom in their life and has no idea what "information sufficient to effect service" means. To the uneducated clerk processing public records requests, that sounds like legal advice, which many government employees are uncomfortable giving. Santaella is saying that we should expect people to file public records requests and expect the government, out of the kindness of their hearts, to turn over public records that, to a dubious employee, they know will assist a person in suing the government, all while expecting the litigant to properly serve defendants at the correct address within 180 days, but with no deadline for fulfilling the public records request.

Secondly, Santaella suggests that indigent persons should just file a lawsuit and get alternative service, but provides no indulgence as to what such lawsuit would seek relief for, what claims would be asserted, and how a plaintiff would use the court system to serve a notice of claim. If a plaintiff asserts monetary relief, the lawsuit would be dismissed for either non-service of a notice of claim or failure to wait the full 60 days before filing suit. Filing a lawsuit cost around \$400 now, so if an indigent litigant is required to pay \$400 to do a mental-gymnastics-lawsuit way of serving a defendant with a notice of claim, just for it to get dismissed, they will have to re-file their lawsuit and

now have a \$800 filing bill instead of a \$400 filing bill. Further, a notice of claim is still not a court document. A complaint and summons are court documents, not notices of claims. A sheriff, in his capacity as a process server, has no duty to serve out-of-court documents to defendants. A sheriff also has no duty to serve the papers in a timely manner. Further a Rule 4.1(k) motion is only for “process” (see Rule 4.1(a)), and it is not clear in the Rules of Civil Procedure whether or not Rule 4.1(k) can affect notices of claims.

It seems ridiculous and a poor use of judicial resources to have a whole “serve a notice of claim lawsuit” just to have the lawsuit dismissed, and then re-filing the lawsuit on the merits. In such a system, who should rightly pay the \$400 filing fee for the non-merits of the case?

In both alleged “solutions” Ms. Santaella provides, it still requires that a claimant serve a notice of claim to a public employee within 180 unforgiving days, but provides no timeline for the “solution”. Public employees have no obligation to meet a person at any place to accept papers in-person. Government entities have no clear obligation to specifically keep records on employee workplace location. Government entities have no deadline to fulfill public records requests. She also proposes a vague “serve a notice of claim lawsuit” with no details as to what kind of relief such a “serve a notice of claim lawsuit” would seek and for what claims, and how that lawsuit would resolve within 180 days.

Let's say Mr. Dalton-Webb had a police officer beat him up today, and it was a state law claim. How far in advance of his 180 day deadline should Mr. Dalton-Webb try these complex legal theories? Should he file a "serve a notice of claim" lawsuit 30 days in advance with a Rule 4.1(k) motion for alternative service? What happens when the judge denies the discretionary Rule 4.1(k) motion? What happens when the judge does not grant the motion in a timely manner? Is a notice of claim a "process" subject to Rule 4.1(k) rulings? If Mr. Dalton-Webb needs to appeal to the Court of Appeals, will he get a favorable order by the notice of claim deadline? What about for the public records request—what magic words does Mr. Dalton-Webb ask the government that will get him what he needs to properly serve a police officer? What happens if Mr. Dalton-Webb doesn't get the government to respond to his public records request within the 180 day deadline? What happens if he calls the police department and they refuse to have a police officer voluntarily meet Mr. Dalton-Webb at the police department so that the police can help himself to get sued? How many days in advance does Mr. Dalton-Webb need to schedule a meeting so that a police officer will voluntarily meet with Mr. Dalton-Webb so that he can help himself get sued?

The answer is that none of these solutions provide any kind of sensible deadline for accomplishing them so that a notice of claim can be "filed" within 180 days. It violates due process for indigent plaintiffs, and has nothing to do with due process for the government—the government gets due process in court.

CONCLUSION

For the above reasons, Mr. Dalton-Webb rejects the notion that this proposal violates due process, that it requires the government to help claimants, that it exceeds the authority of the Arizona Supreme Court, and that the problem could be solved by claimants filing public records requests or filing “serve a notice of claim” lawsuits.

In the alternative that the Arizona Supreme Court does not enact the proposal as-is, Mr. Dalton-Webb requests that the Arizona Supreme Court make changes according to the intent of the proposal to actually fix the issues.

REQUEST FOR ORAL ARGUMENT

Pursuant to Arizona Supreme Court Rule 28(f)(2), Mr. Dalton-Webb hereby requests oral argument or public hearing regarding this rule change petition. This is extremely important to indigent litigants, and is extremely important for due process, and is of statewide importance.

Dated this day, 1 June 2026,

/s/Eli Dalton-Webb

Eli Dalton-Webb