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IN THE SUPREME COURT
STATE OF ARIZONA

PETITION TO ADOPT RULE 412, ARIZONA RULES OF EVIDENCE	Supreme Court No. R-12-0029 **OPPOSITION TO THE PETITION TO PROMULGATE NEW ARIZONA RULES OF EVIDENCE, RULE 412**

I concur in the State Bar of Arizona's opposition to the petition to adopt proposed Arizona Rule of Evidence 412 relating to the admission of medical bills in evidence in personal injury cases. The petition offers a solution to a problem that, largely, does not exist in personal injury cases that do not settle before formal adjudication. Most non-settling personal injury cases are disposed of in mandatory arbitration where, as the State Bar points out, the Rules of Civil Procedure already provide for the admission of relevant medical records without the type of foundational testimony the petitioner is seeking to avoid.

And, as the State Bar noted, in personal injury cases that do reach a courtroom the parties routinely stipulate to the reasonableness of the medical charges. Even when there is no stipulation, it is exceedingly rare for a medical expert to be summoned to testify solely about the reasonableness of the medical charges. In fact, I cannot recall an occasion during my twenty year tenure as a Superior Court Judge when a medical expert was called to testify about the reasonableness of the medical charges when there was no dispute that the charges related to the injuries caused by the defendant.

The proposed rule is overbroad since it is not limited to minor injury cases and it is pernicious since it would create a presumption that statements of medical charges are reasonable when it is a truth widely acknowledged that statements of charges rarely match the charges actually paid. In my opinion, it is unfair to burden defendants to prove that neither plaintiff nor others on plaintiff's behalf paid, or will even pay, the amounts reflected in the statements when it is far easier for plaintiffs to prove what actually is owed.

The Rule change is unnecessary, overbroad and contradicts the truth of medical billing and payment practices.

For these reasons, I oppose the petition.

RESPECTFULLY SUBMITTED this 7th day of May, 2013.

/s/ *Brian R. Hauser*
HON. BRIAN R. HAUSER (RET.)

ELECTRONICALLY filed this
7th day of May, 2013 with the Clerk of the
Supreme Court of Arizona.

COPY of the foregoing mailed on
this 7th day of May, 2013 to:

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Petitioner

/s/ *Amanda N. Bennett*