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**SUPREME COURT  
STATE OF ARIZONA**

In the Matter of the Conservatorship of:

WILLIAM JOHN CHALMERS,

an Adult.

**Case No. CV-23-0263-PR**

**Arizona Court of Appeals  
Case No. 1 CA-CV 22-0429**

Maricopa County Superior Court  
Case No. PB 2017-001373  
Thomas L. Marquoit

**SIMULTANEOUS SUPPLEMENTAL BRIEF  
OF WILLIAM JOHN CHALMERS**

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## Legal Argument

**Courts have the duty to enforce the terms of mandatory statutes. If they fail to perform that duty, the mandatory statutes become mere admonitions.**

For reference, the statute at issue is A.R.S. § 14-5109(A), which states that:

When a guardian, a conservator, an attorney or a guardian ad litem who intends to seek compensation from the estate of a ward or protected person first appears in the proceeding, that person *must give written notice* of the basis of the compensation by filing a statement with the court and providing a copy of the statement to all persons entitled to notice pursuant to §§ 14-5309 and 14-5405. The statement *must provide* a general explanation of the compensation arrangement and how the compensation will be computed.

A.R.S. § 14-5109(A) (emphasis added).

Those words create mandatory duties. The statute is part of Chapter 5 of Title 14, entitled “Protection of Persons under Disability and their Property.” The words of A.R.S. § 14-5109(A) would, however, provide no protection for persons such as William Chalmers, or for his property, if courts fail to enforce the statute’s mandatory words by imposing reasonable orders and sanctions for noncompliance.

“To the extent possible, the courts must enforce all statutes that have been duly enacted.” *Hounshell v. White*, 219 Ariz. 381, 386 ¶ 12 (App. 2008). When performing its duty to construe a statute, a court has a corresponding obligation “to strive to uphold it whenever possible.” *Cohen v. State*, 121 Ariz. 6, 9 (1978). After all, upholding and enforcing the laws of the State of Arizona is this Court’s

“primary duty.” *Donaldson v. Sisk*, 57 Ariz. 483, 488 (1941).

A.R.S. § 14-5109(A)’s words are clear and unambiguous. Courts must not only construe that statute, but as with all statutes, courts must also ““effectuate the text if it is clear and unambiguous”” *In re Drummond*, 543 P.3d 1022, 1025 ¶ 5 (Ariz. 2024) (quoting *BSI Holdings, LLC v. Ariz. Dept. of Transp.*, 244 Ariz. 17, 19 ¶ 9 (2018)). Taking care to construe a statute according to its plain words would matter little if courts failed to take the next step, which is ““to apply the language.”” *State v. Allen*, 253 Ariz. 306, 337 ¶ 37 (2022) (quoting *Baker v. Univ. Physicians Healthcare*, 231 Ariz. 379, 383 ¶ 8 (2013)).

Admittedly, A.R.S. § 14-5109(A) does not say what order or sanction a court should make when “a guardian, a conservator, an attorney or a guardian ad litem who intends to seek compensation from the estate of a ward or protected person” violates its terms. But Arizona courts have the inherent power to make all orders that are necessary to the ordinary and efficient exercise of the jurisdiction that the laws of the State of Arizona and of the Arizona Constitution have conferred on them. *State v. Hameroff*, 180 Ariz. 380, 384 (App. 1994).

These arguments require considering and applying fundamental principles. In other states, that might not be proper. But in Arizona, a “frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.” Ariz. Const. art. 2, § 1.

As a matter of fundamental principle, Arizona courts have an inherent power to implement plain statutory directives through proper sanctions or orders. If a superior court has imposed sanctions or orders that exceed what is necessary and fair to enforce a mandatory statute, our appellate courts can review the sanctions or orders and uphold, reject, or modify them as needed. Without the power to implement plain statutory directives through proper sanctions or orders, mandatory statutes would become mere suggestions about what people should do, instead of mandates telling them what they must do.

That is a fundamental principle that William Chalmers asks this Court to recognize and uphold—not only for him, but for all of Arizona’s citizens.

**DATED** this 12th day of September, 2024.

**AHWATUKEE LEGAL OFFICE, P.C.**

/s/ David L. Abney, Esq.  
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