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9
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 **ELI DALTON-WEBB**

14 Plaintiff,

15 vs.

16 **INDUSTRIAL COMMISSION OF**
17 **ARIZONA**

18 Defendants.

Case No.: **CV2025-035545**

DEFENDANT INDUSTRIAL
COMMISSION OF ARIZONA'S
MOTION TO DISMISS PLAINTIFF'S
AMENDED COMPLAINT

19 Defendants, by and through their attorney, Bobby Wren of RITSEMA
20 LAW, hereby submit the following **DEFENDANT'S MOTION TO DISMISS**
21 **PLAINTIFF'S AMENDED COMPLAINT**. As grounds therefore, Defendants state as
22 follows:

23 **INTRODUCTION**

24 This case concerns Plaintiff's demand that the Industrial Commission of Arizona
25 publically release documents and information that, as a matter of law, are designated to
26 be private and confidential, and that the Industrial Commission has a mandate to protect

1 from release. As a consequence, the Defendant Industrial Commission asks for the case
2 to be dismissed under Ariz. R. Civ. Proc. 12(b)(6) for failure to state a claim for which
3 relief can be granted.
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5 Here, the Plaintiff, Mr. Eli Dalton-Webb appearing *in propria persona*, has filed a
6 mandamus action, appearing to be an original special action filed under A.R.P.S.A.
7 2(b)(1) and 3, in which he is asserting entitlement to wholesale access to all workers'
8 compensation claims records and unfettered access to all hearings involving injured
9 workers, carriers, and employers, held by and at the Defendant Industrial Commission of
10 Arizona ("Industrial Commission"). He also seeks publication of names of injured
11 workers, employers, and carriers via workers' compensation hearing schedules.
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13 As set forth below, it is the position of the Industrial Commission that all of Mr.
14 Dalton-Webb's requests for relief fail as a matter of law, as access to the records and
15 information sought is protected and prohibited by A.R.S. § 23-941(H), A.R.S. § 23-
16 901(10), and Arizona Administrative Code Rule 20-5-108, as "private and confidential"
17 and not subject to inspection or copying, and there is no legal obligation requiring the
18 Industrial Commission to open workers' compensation hearings to the public.
19 Consequently, neither the mandamus relief, nor the public records act request, as a matter
20 of law, apply. Pursuant to A.R.C.P. 12(b)(6) and in accord with 7.1(a)(1), the Industrial
21 Commission herein requests that the Amended Complaint be dismissed for failure to state
22 a claim upon which relief can be granted.
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ARGUMENT

A. Rule 12(B)(6) Standard

Arizona Rule of Civil Procedure 12(b)(6) provides that a party may file a motion for "[f]ailure to state a claim upon which relief can be granted." In considering a motion to dismiss, the Court views all material allegations of the complaint as true and reads the complaint in the light most favorable to the plaintiff. *Doe ex rel. Doe v. State of Arizona*, 24 P.3d 1269 (Ariz. 2001). If the complaint states facts that do not entitle the plaintiff to relief and the deficiency cannot be cured by further pleading, the motion to dismiss should be granted. *Mohave Disposal v. City of Kingman*, 922 P.2d 308, 310 (Ariz. 1996) ("On review of a trial court's decision granting a motion to dismiss, the appellate court assumes the truth of the allegations set forth in the complaint and upholds dismissal only if the plaintiffs would not be entitled to relief under any facts susceptible of proof in the statement of the claim.")

B. Plaintiff's Amended Complaint Fails To State A Claim For Mandamus Relief

a. Standard for mandamus relief

Under ARS § 12-2021, "[a] writ of mandamus may be issued by the supreme or superior court to any person, inferior tribunal, corporation or board, ...the verified complaint of the party beneficially interested, to compel, when there is not a plain, adequate and speedy remedy at law, performance of an act which the law specially imposes as a duty ...[.]" A.R.S. § 12-2021 (emphasis added). As described in *Sears v.*

1 *Hull*, 961 P.2d 1013, 1015 (1998):

2 Mandamus is an extraordinary remedy issued by a court to
3 compel a public officer to perform an act which the law
4 specifically imposes as a duty. Mandamus does not lie if the
5 public officer is not specifically required by law to perform
6 the act. Because a mandamus action is designed to compel
7 performance of an act the law requires, the general rule is that
8 if the action of a public officer is discretionary that discretion
9 may not be controlled by mandamus.

10 For a mandamus to be granted, the law must mandate the requested relief. In this case,
11 however, the controlling law compels the opposite of the relief requested; that the
12 information be protected from public release.

13 **b. Disclosure of claim documents and information sought in the Amended
14 Complaint is prohibited by law and therefore not subject to mandamus
15 relief**

16 In this Special Action, Plaintiff seeks three major categories of documentation or
17 information: inspection and copying of documents from individual workers'
18 compensation claims files; the inspection and opening of the workers' compensation
19 hearings to the public, and publication of workers' compensation hearing dates, times,
20 injured workers, employers, and insurers. Plaintiff's cause of action does not meet the
21 statutory requirements for mandamus relief under A.R.S. § 12-2021 as a matter of law.

22 Extraordinarily among the states, the Arizona Constitution guarantees a
23 compulsory workers' compensation system for both employers and injured workers. This
24 Article directed that the legislature "shall" create a no fault workers' compensation
25 system, expressly outside of the "burdensome" judicial system, for the express purpose:
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... to assure and make certain a just and humane compensation law in the state of Arizona, for the relief and protection of such workmen, their widows, children or dependents, as defined by law, from the burdensome, expensive and litigious remedies for injuries to or death of such workmen, now existing in the state of Arizona.

Ariz. Constitution Art. 18, Sec 8.

In furtherance of the Constitutional imperative, the Arizona Legislature granted the Industrial Commission of Arizona certain and specific statutory powers, including but not limited to, granting the Industrial Commission the:

...full power, jurisdiction and authority to: 1. Formulate and adopt rules and regulations for effecting the purposes of this article. 2. Administer and enforce all laws for the protection of life, health, safety and welfare of employees in every case and under every law when such duty is not specifically delegated to any other board or officer, and, when such duty is specifically delegated, to counsel, advise and assist in the administration and enforcement of such laws and for such purposes may conduct investigations.

Ariz. Rev. Stat. § 23-107(A)(1) & (2).

In following the Constitutional requirements, the Arizona Legislature enacted A.R.S. § 23-941(H), which states “Any interested party or the interested party’s authorized agent shall be entitled to inspect any claims file of the commission, provided that such authorization is filed in writing with the commission.” The legislature further defined “interested party” as “the employer, the employee, or if the employee is deceased, the employee’s estate, the surviving spouse or dependents, the commission, the insurance carrier or their representative.” A.R.S. § 23-901(10). By law, inspection of

1 ICA Claims files is specifically limited to the parties to the claim, their agents upon
2 written authorization, or the commission.

3
4 In addition to the statutory authority prohibiting release of the claims files to the
5 public, the Industrial Commission has instituted rules specific to workers' compensation
6 that are codified in the Arizona Administrative Code ("AAC"). Specifically, the
7 processes and rules controlling workers' compensation claims are governed by Arizona
8 Administrative Code Rule 20 AAC 5 et seq. (See AAC R20-5-101 et seq.)

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10 Under A.R.S. § 41-1001, the word "rule" has specific meaning, rendering the
11 properly promulgated rules of an agency such as the Industrial Commission valid and
12 enforceable. That statute reads: "'Rule' means an agency statement of general
13 applicability that implements, interprets, or prescribes law or policy, or describes the
14 procedures or practice requirements of an agency." A.R.S. § 41-1001.

15
16 The published procedure of an administrative board have been found since 1958 to
17 carry the force and effect of statute. *George v. Ariz. Corp. Comm'n*, 322 P.2d 369, 369
18 (Ariz. 1958); ("Rules and regulations prescribing methods of procedure of an
19 administrative board or commission, ... have the effect of law, are binding on the board
20 or commission, and must be followed by it so long as they are in force and effect.") *See*
21 *also McKesson Corp. v. Ariz. Health Care Cost Containment Sys.*, 286 P.3d 784, 785-86
22 (Ariz. App. 2012); *Thomas & King, Inc. v. City of Phoenix*, P.3d 429, 432 (Ariz. App.
23 2004) ("We read administrative rules and statutes in conjunction with each other and
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1 harmonize them whenever possible.”)

2 To effect the purposes of A.R.S. § 23-941(H) and § 901(10), the Industrial
3 Commission promulgated and adopted Arizona Administrative Code R20-5-108(A).
4 This rule states that all workers’ compensation records in the claims file are deemed
5 “private and confidential” and requires that the Industrial Commission “shall not make
6 the claims file available for inspection and copying.” Specifically, this rule delineates
7 what is to be included in such a file, called a “claims file,” as held by the Industrial
8 Commission:
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11 For purposes of this Section, "claims file" means the official
12 record maintained by the Commission for a claimant's
13 industrial injury including the worker's report of injury,
14 employer's report of injury, worker and physician's report of
15 injury, and all other reports, records, instruments, videotapes,
audiotapes, transcripts, and other matters scanned or
otherwise placed into the file.

16 The inclusion of the verb “shall” in AAC R20-5-108(A), clearly and
17 unambiguously requires Industrial Commission claims file be kept private and
18 confidential and not available for copying and inspection; not subject to discretion. *See*
19 *Walter v. Wilkinson*, 10 P.3d 1218, 1218 (Ariz. App. 2000) (“Use of the word "may"
20 generally indicates permissive intent, while "shall" generally indicates a mandatory
21 provision. If a statute employs both mandatory and discretionary terms, the appellate
22 courts may infer that the legislature intended each term to carry its ordinary meaning.”)
23

24 The Legislature specifically instructed the Industrial Commission to keep claims
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1 files confidential and prohibit distribution to the public by limiting access only to
2 interested parties. A.R.S. § 23-941(H) and § 901(10). The Industrial Commission
3 therefore has authority to enact rules to keep the claims files private and confidential to
4 further the performance of its statutory and Constitutional duties to create a “just and
5 humane” compensation system. *See Phoenix v. Phx. Civil Serv. Bd.*, 818 P.2d 241, 244
6 (Ariz. App. 1991) (“In addition to their express statutory powers, municipal officers and
7 agencies possess all powers that may be fairly implied from, and are necessary for, the
8 complete exercise of their express powers.”)
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11 It is a general rule of statutory interpretation that “the specific controls over the
12 general” so in cases where the application of a specific provision of statutory law causes
13 conflict with another general provision of the statute, then the specific is treated as the
14 exception to the general rule. *Democratic Party v. Ford*, 269 P.3d 721, 722 (Ariz. App.
15 2012). In this case, the Legislature specifically enacted statutes that prohibited release of
16 the Industrial Commission claims files to the public. Further, the Industrial Commission
17 was granted the power to determine that claims files are private and confidential, not
18 subject to public inspection or copying, via its statutory rulemaking authority. See A.R.S.
19 § 23-101(A); A.R.S. § 23-107; and AAC R20-5-108(A). In matters of the interpretation
20 and application of statutes, the Court of Appeals has held that an agency's interpretation
21 of a statute is to be accorded “great weight.” *Phx. Newspapers v. Ariz. Dep't of Econ.*
22 *Sec.*, 924 P.2d 450, 451 (Ariz. App. 1996). By enacting AAC R20-5-108, the Industrial
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1 Commission interpreted A.R.S. § 23-941(H) and § 901(10) as prohibiting release of
2 claims file materials to the public.

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4 Because there is a specific statute and rule prohibiting release of Industrial
5 Commission files to the public, that statute controls over the general public records
6 statute. Because the Industrial Commission has no mandatory obligation to release the
7 records and other requested access under law, and is in fact legally prohibited from
8 releasing claims files to the public without authorization, the mandamus action must fail.
9
10 Consequently, the Industrial Commission requests that this motion to dismiss be granted
11 pursuant to A.R.C.P. 12(b)(6).

12 **c. The Industrial Commission is not required by law to open workers’**
13 **compensation hearings to the public**

14 Plaintiff demands the ICA open all workers’ compensation hearings to the public
15 at large, relying on Art. 2 § 11 and one sentence in Art. 18 § 8 of the Arizona
16 Constitution. Because workers’ compensation matters are not subject to Art. 2 § 11 of
17 the Arizona Constitution, Plaintiff’s request should be denied.
18

19 At the outset, the ICA notes that there is no general prohibition on members of the
20 public from attending workers’ compensation hearings. Attendance by non-parties or
21 witnesses is left to the discretion of each individual ALJ.
22

23 Art. 2 § 11 states “Justice in all cases shall be administered openly, and without
24 unnecessary delay.” This section has generally been interpreted to apply for the benefit
25 of an accused in a criminal case. See *Phoenix Newspapers v. Jennings*, 493 P.2d 563
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1 (Ariz. 1971). See also *Ridenour v. Schwartz*, 875 P.2d 1306 (Ariz. 1994) (addressing a
2 criminal accused’s right to public trial in light of general order closing courthouse access
3 after 3:00 p.m.)
4

5 Workers’ compensation hearings are not courts of general jurisdiction and are not
6 organized under the Judicial Branch. *Arrowhead Press v. Industrial Comm’n*, 653 P.2d
7 371, 374 (Ariz. App. 1982) (“[The] Industrial Commission is not a court of general
8 jurisdiction and there are no provisions in our statutes giving it jurisdiction over parties
9 other than the employer, carrier and injured workman[.]”) See also *Gibbons v. Industrial*
10 *Comm’n.*, 3 P.3d 1028 (Ariz. App. 1999). Instead, they are organized specifically under
11 Art. 18 § 8, governing the workers’ compensation system. Because the Industrial
12 Commission’s jurisdiction is limited only to those disputes arising under Arizona’s
13 workers’ compensation system, it does not address or concern the notions of justice and
14 fault or punishment as contemplated in Art. 2 § 11. This is further evidenced by the fact
15 that the ICA was specifically created “for the relief and protection of such workmen, their
16 widows, children or dependents, as defined by law, from the burdensome, expensive and
17 litigious remedies for injuries to or death of such workmen, now existing in the State of
18 Arizona, and producing uncertain and unequal compensation therefor[.]” Ariz. Const.
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22 Art. 18 § 8 (emphasis added). Article 18 § 8 specifically created the workers’
23 compensation system to remove on-the-job injuries from the “burdensome, expensive and
24 litigious remedies” that were until then only available through the traditional notions of
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1 justice in the courts. Given this explicit removal of the traditional concept of justice
2 through the courts, it cannot be reasoned that the open administration provisions of Art. 2
3 § 11 applies to workers' compensation hearings.
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5 Plaintiff's argument that use of the word "just" in Art. 18 § 8 brings workers'
6 compensation hearings within the meaning of "justice" as used in Art. 2 § 11 fails on its
7 face. "Just" and "justice" have separate and distinct plain meanings. "Just" is generally
8 defined as "having a basis in or confirming to fact or reason." Merriam-Webster
9 Dictionary; <https://www.merriam-webster.com/dictionary/just>. "Justice" means "the
10 process or result of using laws to fairly judge cases, redress wrongs, and punish crimes."
11 Merriam-Webster Dictionary; <https://www.merriam-webster.com/dictionary/justice>.
12 These separate meanings are borne out by their uses in their respective sections of the
13 Arizona Constitution. Article 18 § 8 uses "just" to describe the aims of the workers'
14 compensation law, ("...in order to assure and make certain a just and humane
15 compensation law in the State of Arizona...") i.e. to avoid uncertain and unequal
16 compensation. Whereas "justice" as used and interpreted in Art. 2 § 11 concerns
17 judgment of cases, redress of wrongs and punishment of crimes.
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21 Given the fact that the ICA is not a court of general jurisdiction and does not
22 address traditional notions of justice as contemplated by the open administration
23 provisions of Art. 2 § 11 of the Arizona Constitution, it is not bound by those
24 requirements. Because there is no specific legal obligation requiring that workers'
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1 compensation hearings be open to the public, Plaintiff cannot establish a mandamus
2 claim, and the Amended Complaint should be dismissed.

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4 **C. The Documents And Information Sought By Plaintiff Are Not “Public
5 Records” Under Title 39 And Therefore Not Subject To Disclosure Under The
6 Public Records Laws**

7 Alternatively, dismissal of the Amended Complaint for failure to state a claim is
8 proper because Plaintiff fails to show the records and information sought constitute
9 public records.

10 Arizona Revised Statutes Title 39, specifically Chapter 1, Article 2, establishes the
11 state's public records law, declaring that records maintained by government entities with
12 a substantial nexus to government activity are public, subject to inspection and copying.
13 A.R.S. § 39-121; A.R.S. § 39-121.01.

14
15 As discussed above, the unambiguous and plain language of A.R.S. §23-941(H); §
16 901(10), and AAC R20-5-108, defines all records in the control and custody of the
17 Industrial Commission claims file as “private and confidential” and not subject to public
18 inspection or copying. And to the extent the public records policy of A.R.S. § 39-121
19 and A.R.S. §23-941(H); § 901(10), and AAC R20-5-108, are in conflict, again, as
20 discussed above, the "specific statute controls over the general" and therefore the records
21 and access to the hearings sought are not public records subject to Title 39. See *Berry v.*
22 *State Dep't of Corrections*, 699 P.2d 387 (Ariz. App. 1985); (applying the rule of
23 statutory interpretation.)
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1 While Arizona does have a relatively robust public records law in questions of
2 statutory interpretation, Arizona courts have held that “[d]espite the unlimited disclosure
3 expressed by the wording of Ariz. Rev. Stat. § 39-121, the availability of records for
4 public inspection is not without qualification. There are numerous statutory exemptions
5 to the general "open access" policy toward public records.” *Carlson v. Pima Cty.*, 687
6 P.2d 1242, 1243 (Ariz. 1984). *See also Phoenix Newspapers, supra*, (Denying a public
7 records request for a list of foster parents, finding foster parent records were confidential
8 under a specific statute and therefore were not public records.)
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10
11 Here, there are express statutory and regulatory exemptions protecting and
12 shielding Industrial Commission claims files from public inspection. These express
13 provisions control, and render the records sought private and confidential. Because the
14 Amended Complaint does not provide any basis for disclosure in the face of these express
15 provisions, it should be dismissed for failure to state a claim upon which relief can be
16 granted.
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18 WHEREFORE, Defendants respectfully request that the PLAINTIFF’S
19 AMENDED COMPLAINT be dismissed, together with such other sanctions as to this
20 Court seem meet and just.
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Respectfully submitted this 27th day of April, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2026 the foregoing copy of **DEFENDANT INDUSTRIAL COMMISSION OF ARIZONA'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT** was filed and served upon the following parties below:

VIA EMAIL: dw4az@proton.me

Eli Dalton-Webb

VIA EFILE: AZ Turbo Court

Superior Court of the State of Arizona

County of Maricopa

/s/ Darla Banks