

# ARIZONA SUPREME COURT

STATE OF ARIZONA, *ex rel.*  
MARK BRNOVICH, Attorney General,

Petitioner,

v.

CITY OF PHOENIX, Arizona,

Respondent.

Case No.: CV–20–0019

## **RESPONSE TO MOTION TO INTERVENE**

Petitioner, State of Arizona *ex rel.* Mark Brnovich, Attorney General, respectfully submits this response to Rowe, et al.’s Motion to Intervene (“Motion”). (See 1/24/20 Order.)

The five individuals who seek to intervene in this matter describe themselves as “[r]ide-sharing drivers and passengers who have been providing or using ride-sharing services to and from Sky Harbor International Airport [] for several years.” (Motion to Intervene at 2.) These individuals assert that their intervention is appropriate under Rule 2 of the Arizona Rules of Procedure for Special Actions. (*Id.*) See R. P. Spec. Act. 2(b) (stating, in relevant part, that this Court “may allow other persons to intervene subject to the provisions of Rule 24 of the Rules of Civil Procedure; or may order their joinder as parties; or may allow them to participate *amicus curiae*”).

Here, this Court accepted mandatory jurisdiction of the Attorney General's Petition for Special Action under A.R.S. § 41–194.01(B)(2) after the Attorney General concluded that a City of Phoenix (“City”) Ordinance “[m]ay violate” article IX, § 25 of the Arizona Constitution. *See* A.R.S. 41–194.01(B)(2) (when the Attorney General determines that a city’s ordinance “[m]ay violate a provision of ... the Constitution of Arizona, the attorney general shall file a special action in supreme court to resolve the issue, and the supreme court shall give the action precedence over all other cases”). Notably, when this Court established briefing deadlines for the Attorney General and the City, it also established a deadline of March 3, 2020, for any interested parties to file an amicus brief. (See 1/22/20 Order.)

The issue before the Court is “[w]hether the City of Phoenix, in violation of article IX, § 25 of the Arizona Constitution, imposed or increased transaction-based fees on the privilege to engage in a service performed in this State when it approved an Ordinance that imposes and increases new ‘trip fees’ for commercial ground transportation services beginning or terminating at the Airport.” (Petition for Special Action at 9.) This issue is purely legal in nature and does not require factual development. (See Motion at 15 [stating that Rowe et al. intend to “assert different and important facts regarding their particular injuries”].) Contrary to the proposed intervenors’ assertions (see Motion at 11–12), the Attorney General

adequately represents the interests of Rowe et al. because, like the proposed intervenors (see Motion at 16), the Attorney General alleges that the Ordinance is unconstitutional.

And because the proposed intervenors will have an opportunity to submit an amicus brief stating their position and legal arguments, this Court should deny the Motion to Intervene.

RESPECTFULLY SUBMITTED this 28th day of January, 2020.

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