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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	Supreme Court No. R-22-0026
PETITION TO AMEND)	
RULE 25(e), RULES OF PROTECTIVE)	Motion for Expedited
ORDER PROCEDURE)	Consideration of Petition
)	to Amend Rule 25(e),
)	Rules of Protective Order
)	Procedure
_____)	

The Petitioner in the above-captioned matter hereby respectfully moves this Court for expedited consideration of the Petition to Amend Rule 25(e), Rules of Protective Order Procedure for the reasons to be explained hereinbelow.

I. Summary of the Proposed Rule Amendments

As explained in the Petition in the above-captioned matter, Title 12, Section 1809 of the Arizona Revised Statutes sets forth the conditions under which Arizona courts may grant injunctions against harassment. Section 12-1809(T)(1)(a) defines “harassment” as: “A series of acts *over any period of time* that is directed at a specific person” (emphasis added). Rule 3 of the Arizona Rules of Protective Order Procedure uses this same definition.

A.R.S. § 12-1809(E) provides in addition that, in reviewing the petition, the court must find *inter alia* “reasonable evidence of harassment of the plaintiff by the defendant during the

year preceding the filing of the petition.” However, Rule 25(e) of the Rule of Protective Order Procedure erroneously requires a person seeking an injunction against harassment to show, not reasonable evidence of harassment in the preceding year, but: “(A) reasonable evidence that the defendant has committed *a series of acts of harassment . . .*, against the plaintiff during the year preceding the filing” (emphasis added). Rule 25 thus changes the meaning of A.R.S. § 12-1809(E) to require the plaintiff to show that the defendant’s acts satisfy the entire definition of harassment within the last year, instead of merely showing that the defendant’s acts satisfy the definition of “harassment” at any time and presenting reasonable evidence that the defendant committed at least one harassing act against the plaintiff in the past year. This misinterpretation of A.R.S. § 12-1809(E) thus contradicts the definition of harassment as a series of acts occurring over “any period of time.”

The Petition therefore requests that Rule 25(e) be amended to provide that the defendant’s conduct must satisfy the definition of “harassment” in Rule 3, and that reasonable evidence must show that the defendant committed any act of harassment against the plaintiff within the last twelve months. This amendment avoids nullifying the statutory meaning of “harassment” as two or more acts occurring “over any period of time” while ensuring that the plaintiff files the petition for an injunction against harassment in a timely manner.

II. Petitioner’s Reasons for Requesting Expedited Consideration

Rule 28(h)(1) of the Rules of the Supreme Court of Arizona requires the petitioner to state the reasons for the request for expedited consideration, and provides that the request will be granted only if “compelling circumstances” justify expedition.

The rationale for the request for expedited consideration in this matter follows from the nature of the Rules of Protective Order Procedure. Protective orders are inherently urgent, and any rule that disables the victim of harassment as defined by statute from obtaining the State's protection against a potentially or demonstrably dangerous individual merits expedited consideration. This specific proposed amendment is urgent for two compelling reasons, one public and one private.

The public reason, noted in the Petition, is that the current version of Rule 25(e) would deny a victim of harassment relief for conduct satisfying this definition even if the victim promptly filed the petition for an injunction. The Petition lists several examples in which a person is subjected to harassing, obsessive, and potentially dangerous conduct by a defendant that easily meets both the statutory and the Rules of Protective Order Procedure definition of harassment, yet Rule 25(e) as currently written denies the victim any protection. As the Petition states:

For example, if D threatened the life of P on January 1, 2020; then D stalked P throughout the day on January 2, 2021, Rule 25(e) requires the court to deny an injunction to protect P even if P files a petition for the injunction on January 3, 2021, despite the fact that D's conduct toward P clearly satisfies the definition of harassment in A.R.S. § 12-1809(T) and occurred recently.

Similarly, suppose D committed a series of seven unprovoked assaults on P throughout the month of December 2019, and P obtained an injunction against harassment against D on January 5, 2020. Under Rule 25(e), if D committed a fresh assault on P on January 6, 2021, P would have to wait until D committed *yet another* assault on P before obtaining a protective order, despite D's established history of assaulting P. For that matter, if D were to threaten, assault, stalk, or otherwise harass P once every 366 days for the rest of P's life, P would have no possibility of obtaining an injunction under Rule 25(e), as currently written.

Until Rule 25(e) is corrected, it continues to leave Arizonan victims of harassment without a remedy, and therefore at the mercy of their persecutors, even when the definition of harassment in Rule 3 has been satisfied.

The private reason for which expedited consideration of the Petition is compelling is that I have a specific client whose petition for an injunction against harassment was recently denied on grounds of Rules 25(e), and she continues to be exposed to danger by an obsessive and aggressive neighbor. Until Rule 25(e) is amended, she cannot legally obtain protection. This client had obtained injunctions against harassment against this neighbor and her live-in boyfriend in April 2020, which the defendants contested and lost. These orders were affirmed in June 2020. My client successfully avoided this neighbor in the ensuing months, but upon the injunction expiring, the neighbor has again begun harassing my client. Merely by waiting for a past injunction against harassment to expire, my client's persecutor has thus avoided another injunction until she threatens or assaults my client *yet again*. Rule 25(e) as currently drafted needlessly exposes my client to danger, despite the fact that my client sought an injunction swiftly following the defendant's most recent aggression and that the defendant's conduct satisfies the statutory definition of harassment. No public policy is served by exposing my client, and other victims in a situation similar to hers, to continued danger.

For the foregoing reasons, I move this Court for expedited consideration of the Petition to Amend Rule 25(e), Rules of Protective Order Procedure.

RESPECTFULLY SUBMITTED this 6th day of June, 2022.

By



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