

There are two main concerns about the rule in its current form. First, a Rule 84 motion is, at times, misused in cases where the time for relief from the judgment under Rule 85(c) has lapsed. Such a motion often is relief sought under Rule 85(b) couched as a Rule 84 motion for clarification.

The second main concern is that as time passes, it becomes far more challenging for the judicial officer who entered the ruling to fully recall the evidence and the basis for the subject ruling. Also, with the passage of time, the need for a follow up hearing or conference increases based upon the possible lack of full recall, despite the fact that the rule itself does not allow for further proceedings. Additionally, clarification relief can often have some overlapping modification aspects. That becomes more difficult to distinguish with the passage of time.

With judicial rotations in many of the larger county courts, there are also circumstances where the judicial officer who ruled on the case may no longer be presiding over that same family calendar. This creates other issues when the clarification is sought after a long delay.

It is suggested that a party to an order of the court should recognize the need for clarification of the terms of the order within a reasonable time period. While there can be differing proposals that would limit the time in which the motion could be brought, such as 30 days or 90 days or even

longer, the lack of *any* deadline poses more issues than it solves by allowing the motion to be filed *at any time*.

This proposal carves out two exceptions to the proposed six-month limit. First, particularly in the “IV-D support world,” there are support orders that the parties do not recognize to have an ambiguity but the lack of clarity is identified once the IV-D agency (DCSS of DES in Arizona) becomes engaged in the case. This can occur years after the entry of the order. The second exception relates to retirement assets. At times, the need for clarification arises when a Qualified Domestic Relations Order (QDRO) is being drafted for the division of retirement assets long after the entry of the original order.

PROPOSAL

The current Rule 84(b) of the Arizona Rules of Family Law Procedure should be amended as follows (new language in red):

(b) Timing. A party may file a motion for clarification **within 6 months after the entry of the ruling, unless good cause is demonstrated as to why the motion was not filed within that time. If the motion is filed to clarify support obligations or distribution of retirement benefits under the order, the motion may be filed at any time. The filing of a motion for clarification** does not extend the time for filing a notice of appeal.

RESPECTFULLY SUBMITTED, this 3rd day of November, 2022.

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