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Superior Court in Maricopa County
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Chair, Committee on the Impact of Domestic Violence and the Courts

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	Supreme Court No. R-10-0014
Petition to Repeal Rule 1(B)(1)(D))	
and Amend Nine Subsequent)	Comment to Petition to Repeal Rule 1(B)(1)(D)
Rules that Use the Term “Victim”)	and Amend Nine Subsequent Rules that Use
in the Arizona Rules of Protective)	the Term “Victim” in the Arizona Rules of
Order Procedure)	Protective Order Procedure
_____)	

BACKGROUND

The Domestic Violence Rules Committee (DVRC) was established on November 17, 2005, by Administrative Order 2005-85 to “research other statewide domestic violence rules, study the issues relevant to domestic violence procedural matters in Arizona, and consider alternatives to Rule 96, Domestic Violence Benchbooks in the *Arizona Rules of Family Law Procedure* which may include statewide domestic violence rules.” The committee convened and during the next year developed a stand-alone set of procedural rules for protective order cases. On June 29, 2007, the Hon. William J. O’Neil, DVRC chair, submitted a petition under Rule 28, asking the Arizona Supreme Court to adopt the Arizona Rules of Protective Order Procedure (ARPOP). The Arizona Supreme Court adopted the ARPOP on September 5, 2007, making the rules effective on January 1, 2008. The DVRC, having fulfilled its purpose, was disbanded by Administrative Order 2008-08 on January 23, 2008.

The Committee on the Impact of Domestic Violence and the Courts (CIDVC), realizing that no formal committee remained to address modifications to the ARPOP, established the ARPOP Workgroup on November 10, 2009. The workgroup met to discuss the petition referenced herein and provided a draft response to CIDVC on May 11, 2010. CIDVC members, by a majority vote, have authorized the undersigned, the Honorable Emmet J. Ronan, CIDVC chair, to file this response to Petition No. R-10-0014 on the committee's behalf.

DISCUSSION

Petitioner has asked the Court to repeal Rule 1(B)(1)(d), ARPOP, and to amend nine subsequent rules that contain the term "victim." He requests that where the term "victim" is used, it be changed to "alleged victim."

Rule 1(B)(1)(d) states that the terms "victim" and "plaintiff" are used interchangeably throughout the ARPOP. The relationship tests set forth in various sections of Rule 6, ARPOP, do use the term "victim" because the rules in this section are a verbatim recitation of the statutory relationships in A.R.S. § 13-3601. The rules were written to be consistent with the statute, leaving no room for misinterpretation of the meaning the Legislature intended to ascribe to them. The rule clearly identifies the list in Rule 6(C)(B)(2) as the "[s]tatutory relationships."

Except for the Rule 1 definition of "victim," the only other places the term "victim" appears is in Rules 6(D)(2)(b) and 6E)(e)(1). In both instances, the term used is "alleged victim."

The Rules of Protective Order elevated information previously contained in the Domestic Violence Benchbook so the materials would be available to both the courts and the public. In presenting this information to the public, it was important to maintain consistency with the statutory threshold test for a person applying for an Order of Protection. Persons not meeting this

relationship test cannot obtain an Order of Protection but may instead petition the court for an Injunction Against Harassment or an Injunction Against Workplace Harassment.

While research may suggest that domestic violence is gender based, the ARPOP are gender neutral throughout, designed to be fair and impartial. The Equal Protection Clause of the Fourteenth Amendment is not implicated here. The roles or titles given to “plaintiffs” and “defendants” in a court action do not make them members of any suspect class. They are simply labels that identify the party who initiated the case and the party who is defending against it.

CONCLUSION

For the reasons stated above, CIDVC respectfully requests the Court to reject Petition No. R-10-0014 in its entirety and to leave Rules 1(B)(1)(d) and the nine referenced subsections of Rule 6 ARPOP, intact as currently written.

Respectfully submitted this _____ day of May, 2010.

Hon. Emmet J. Ronan
Judge of the Superior Court
Superior Court in Maricopa County