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8 IN THE SUPREME COURT

9 STATE OF ARIZONA

10 IN THE MATTER OF:

R-09-0045

11 PETITION TO REPEAL RULE
12 6(E)(4)(E)(2), RULES OF PROTECTIVE
13 ORDER PROCEDURE

**MARICOPA COUNTY ATTORNEY'S
OFFICE COMMENTS ON PETITION
TO REPEAL RULE 6(E)(4)(E) (2),
RULES OF PROTECTIVE ORDER
PROCEDURE**

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16 The Maricopa County Attorney hereby comments in opposition to the petition to repeal Rule
17 6(E)(4)(e)(2), Rules of Protective Order Procedure, which addresses the judicial officer's
18 authorization to prohibit a defendant from possessing, purchasing, or receiving firearms or
19 ammunition for the duration of an Injunction Against Harassment.

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21 Respectfully submitted this 19th day of May, 2010.

22 RICHARD M. ROMLEY
23 MARICOPA COUNTY ATTORNEY

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25 BY:


26 PAUL W. AHLER
27 Chief Deputy County Attorney
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1 I. COMMENTS

2 Mike Palmer filed a petition to repeal Rule 6(E)(4)(e)(2), Rules of Protective Order
3 Procedure. The Maricopa County Attorney’s Office (MCAO) urges the Court to deny the
4 proposed repeal of Rule 6(E)(4)(e)(2), Rules of Protective Order Procedure.
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6 Arizona Revised Statute section 12-1809 governs the filing and the review of an Injunction
7 Against Harassment. This statute provides that if the court issues an injunction, the court may
8 “[g]rant relief necessary for the protection of the alleged victim and other specifically designated
9 persons proper under the circumstances.” A.R.S. §12-1809(F)(3). Rule 6(E)(4)(e)(1) states that the
10 court may grant relief necessary to protect the victim. In addition, to explore relief necessary to
11 protect the victim, Rule 6(E)(4)(e)(2) specifies that the court
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13 shall ask the plaintiff about the defendant’s use of or access to weapons or
14 firearms. The judicial officer may prohibit the defendant from possessing,
15 purchasing or receiving firearms and ammunition for the duration of the
16 Injunction Against Harassment.

17 *District of Columbia v. Heller*, 128 S.Ct. 2783 (USSC 2008), held that a ban on the possession of
18 firearms in the home was a violation of the Second Amendment. However, as the Court expressly
19 stated, their opinion does not cast a doubt on lawful regulatory prohibitions on the possession of
20 firearms. Nothing in the *Heller* case supports the position that Rule 6(E)(4)(e)(2) is an
21 unconstitutional violation of the Second Amendment.
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23 MCAO opposes the repeal of Rule 6(E)(4)(e)(2), Rules of Protective Order Procedure. Rule
24 6(E)(4)(e)(2), Rules of Protective Order Procedure, is supported by the statutory language in A.R.S.
25 §12-1809 (F)(3) which provides that when issuing an Injunction Against Harassment, the court may
26 grant relief necessary to protect the victim.
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1 **II. CONCLUSION**

2 The Supreme Court should not repeal Rule 6(E)(4)(c)(2), Rules of Protective Order
3 Procedure which supports A.R.S. §12-1809. It is an important component for ensuring the safety
4 of individuals seeking an Order of Protection.
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7 Respectfully submitted this 19th of May, 2010.

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