



TO:

Rule 28 Distribution  
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## ATTACHMENT<sup>1</sup>

### RULES OF FAMILY LAW PROCEDURE

#### Rule 67.1. Collaborative Law Proceedings

(a) [No change]

(b) **Definitions.** In this rule:

(1)-(2) [No change]

(3) “Collaborative law process” means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(A) sign a collaborative law participation agreement; and

(B) are represented by collaborative lawyers or collaborative legal paraprofessionals.

(4) [No change]

(5) “Collaborative legal paraprofessional” means a legal paraprofessional who represents a party in a collaborative law process pursuant to ACJA 7-210.

~~(56)~~ [No change in text]

~~(67)~~ [No change in text]

~~(78)~~ [No change in text]

~~(89)~~ [No change in text]

~~(910)~~ [No change in text]

~~(1011)~~ [No change in text]

~~(112)~~ “Prospective party” means a person that discusses with a prospective collaborative lawyer or collaborative legal paraprofessional the possibility of signing a collaborative law participation agreement.

~~(1213)~~ [No change in text]

~~(1314)~~ [No change in text]

~~(1415)~~ [No change in text]

~~(1516)~~ [No change in text]

(c) [No change]

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<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

**(d) Collaborative Law Participation Agreement; Requirements.**

(1) A collaborative law participation agreement must:

(A)-(D) [No change]

(E) identify the collaborative lawyer or collaborative legal paraprofessional who represents each party in the process; and

(F) contain a statement by each collaborative lawyer or collaborative legal paraprofessional confirming the lawyer's or non-lawyer's representation of a party in the collaborative law process.

(2) [No change]

**(e) Beginning and Concluding Collaborative Law Process.**

(1)-(3) [No change]

(4) A collaborative law process terminates:

(A) [No change]

(B) when a party:

(i)-(iii) [No change]

(iii) except as otherwise provided by subpart E(7), when a party discharges a collaborative lawyer/collaborative legal paraprofessional or a collaborative lawyer/collaborative legal paraprofessional withdraws from further representation of a party.

(5) A party's collaborative lawyer or collaborative legal paraprofessional must give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) [No change]

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer or collaborative legal paraprofessional, a collaborative law process continues, if within 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer or collaborative legal paraprofessional required by section E is sent to the parties:

(A) the unrepresented party engages a successor collaborative lawyer or collaborative legal paraprofessional; and

(B) in a signed document:

(i) the parties consent to continue the process by reaffirming the collaborative law participation agreement;

(ii) the agreement is amended to identify the successor collaborative lawyer or collaborative legal paraprofessional; and

(iii) the successor collaborative lawyer or collaborative legal paraprofessional confirms the lawyer's or legal paraprofessional's representation of a party in the collaborative process.

(8)-(9) [No change]

**(f) Proceedings Pending Before Tribunal; Status Report.**

(1)-(2) [No change]

(3) A tribunal in which a proceeding is stayed under subpart (f)(1) may require the parties and collaborative lawyers and/or collaborative legal paraprofessionals to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(4)-(5) [No change]

**(g)-(h) [No change]**

**(i) Disqualification of Collaborative Lawyer or Collaborative Legal Paraprofessionals and Lawyers and Collaborative Legal Paraprofessionals in Associated Law Firm.**

(1) Except as otherwise provided in subpart (i)(3), a collaborative lawyer or collaborative legal paraprofessional is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subpart (i)(3) and sections (j) and (k) of this rule, a lawyer or legal paraprofessional in a law firm with which the collaborative lawyer or collaborative legal paraprofessional is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer or collaborative legal paraprofessional is disqualified from doing so under subpart (i)(1).

(3) A collaborative lawyer, collaborative legal paraprofessional, or a lawyer in a law firm with which the collaborative lawyer or collaborative legal paraprofessional is associated may represent a party:

(A) to ask a tribunal to approve an agreement resulting from the collaborative law process; or

(B) to seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or protected person as defined in Rule 5 of the Arizona Rules of Protective Order Procedure if a successor lawyer is not immediately available to represent that person.

(4) If subpart (i)(3)(b) applies, a collaborative lawyer, collaborative legal paraprofessional, or lawyer in a law firm with which the collaborative lawyer or

collaborative legal paraprofessional is associated, may represent a party or protected persons defined in Rule 5 of the Arizona Rules of Protective Order Procedure only until the person is represented by a successor lawyer or a successor legal paraprofessional, or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

**(j) Low Income Parties.**

(1) The disqualification of subpart (i)(1) of this rule applies to a collaborative lawyer or collaborative legal paraprofessional representing a party with or without fee.

(2) After a collaborative law process concludes, another lawyer or legal paraprofessional in a law firm with which a collaborative lawyer or collaborative legal paraprofessional was disqualified under subpart (i)(1) of this rule is associated may represent a party without fee in the collaborative matter or a matter related to the collaborative matter if:

(A)-(B) [No change]

(C) the collaborative lawyer or collaborative legal paraprofessional is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer or collaborative legal paraprofessional from such participation.

**(k)-(m) [No change]**

**(n) Appropriateness of Collaborative Law Process.** Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer or collaborative legal paraprofessional must:

(1) assess with the prospective party factors the lawyer or legal paraprofessional reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(2) provide the prospective party with information that the lawyer or legal paraprofessional reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and

(3) advise the prospective party that:

(A) after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(B) participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(C) the collaborative lawyer or collaborative legal paraprofessional and any lawyer in a law firm with which the collaborative lawyer or collaborative legal paraprofessional is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by subparts (i)(3), (j)(2), or (k)(2) of this rule.

**(o) Coercive or Violent Relationship.**

(1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer or collaborative legal paraprofessional must make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(2) Throughout a collaborative law process, a collaborative lawyer or collaborative legal paraprofessional reasonably and continuously must assess whether the party the collaborative lawyer or collaborative legal paraprofessional represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer or collaborative legal paraprofessional reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer or legal paraprofessional has a history of a coercive or violent relationship with another party or prospective party, the lawyer or legal paraprofessional may not begin or continue a collaborative law process unless:

(A) the party or the prospective party requests beginning or continuing a process; and

(B) the collaborative lawyer or collaborative legal paraprofessional reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

**(p)-(t) [No change]**