

1 Honorable Barbara Rodriguez Mundell
2 Presiding Judge
3 Superior Court of Arizona, Maricopa County
4 125 W. Washington St.
Phoenix, AZ 85003
(602) 506-6130

5 IN THE SUPREME COURT OF THE STATE OF ARIZONA

6
7 In the Matter of:

8 ARIZONA RULES OF
9 PROTECTIVE ORDER
10 PROCEDURE, RULE 1(D)(4)

11 } Supreme Court No. R-10-0013
12 } COMMENT OF THE SUPERIOR
13 } COURT OF ARIZONA, MARICOPA
} COUNTY TO PETITION TO
} AMEND RULE 1(D)(4) OF THE
} ARIZONA RULES OF
} PROTECTIVE ORDER
} PROCEDURE

14 The Presiding Judge of the Superior Court in Maricopa County files the
15 following comment pursuant to Rule 28, Arizona Rules of the Supreme Court,
16 regarding the petition to amend Rule 1(D)(4) of the Rules of Protective Order
17 Procedure. The Superior Court in Maricopa County opposes the petition to
18 amend Rule 1(D)(4) of the Rules of Protective Order Procedure because the
19 proposed amendment would limit the court’s ability to control the courtroom and
20 limit the court’s ability to ensure the safety of the participants.

21 The current version of Rule 1(D)(4) provides “[f]ollowing a hearing, the
22 court may direct the defendant to remain in the courtroom for a period of time
23 after the plaintiff is excused.” This is consistent with the court’s inherent
24 authority. The court must be able to maintain order within the courtrooms, as
25 well as ensure the safety of the litigants. In proceedings regarding orders of
26 protection, similar to general family court proceedings, emotions are often
27 heightened and safety becomes a concern. Regardless of Rule 1(D)(4), the court
28 has always had the inherent authority to mandate the order of the parties leaving

1 the courtroom and the timing of the parties leaving. *See, e.g., State v. Whalen,*
2 192 Ariz. 103, 108, 961 P.2d 1051, 1056 (App. 1997) (“Fundamental to the
3 court’s ability to control the courtroom, is the power to instruct those
4 participating ... to the manner in which they comport themselves. To further this
5 end, trial judges have the authority and the obligation to ensure that counsel,
6 litigants, jurors, court personnel and spectators behave civilly.”); *Epps v. Com.,*
7 47 Va. App. 687, 626 S.E.2d 912, 918, 920 (2006) (recognizing that courts’
8 inherent authority to ensure the security of their courtrooms and to ensure the
9 orderly administration of justice “necessarily extends to ensuring the security of
10 the courthouse,” since “it would be folly to claim the circuit court judge has the
11 power to ensure courtroom, but not courthouse, security”); *State v. Wadsworth,*
12 139 Wash.2d 724, 991 P.2d 80, 89-90 (2000) (recognizing that a court has “the
13 inherent power and obligation ... to control all its necessary functions to promote
14 the effective administration of justice,” and thus, the court may act as
15 “reasonably necessary for the efficient administration of justice” and “to ensure
16 the safety of court personnel, litigants and the public”).

17 For the foregoing reasons, the Superior Court opposes the petition to
18 amend Rule 1(D)(4) of the Rules of Protective Order Procedure.

19 Respectfully submitted this 20th day of May, 2010.

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Honorable Barbara Rodriguez Mundell
Presiding Judge
Superior Court of Arizona, Maricopa County

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25 Original and six (6) copies delivered this
20th day of May, 2010 to:

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27 Clerk of the Arizona Supreme Court
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Copy hand-delivered this
20th day of May, 2010 to:

David K. Byers, Director
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