

1 DENNIS M. MCGRANE  
YAVAPAI COUNTY ATTORNEY  
2 Firm No. 00048700  
Benjamin D. Kreutzberg, SBN 027984  
3 Deputy County Attorney  
255 E. Gurley Street  
4 Prescott, AZ 86301  
(928) 771-3344  
5 ycao@yavapaiaz.gov

6  
7 SUPREME COURT OF ARIZONA

8 In the matter of:

Supreme Court No. R-25-0059

9 ADOPTION OF RULES FOR  
COURT-ORDERED MENTAL  
10 HEALTH PROCEEDINGS

**COMMENTS OF DENNIS M. MCGRANE,  
YAVAPAI COUNTY ATTORNEY AND  
THE YAVAPAI COUNTY ATTORNEY'S  
OFFICE**

11  
12 Dennis M. McGrane, Yavapai County Attorney, and the Yavapai County  
13 Attorney's Office (collectively "YCAO") hereby submit the following comments to this  
14 Petition. As a mid-sized county, Yavapai County experiences some processes and  
15 challenges common to both large and small counties in mental health treatment issues.  
16 Accordingly, YCAO possesses highly relevant experience about these cases. The  
17 undersigned has represented Yavapai County's screening and evaluation agencies in  
18 several hundred court-ordered evaluation and court-ordered treatment cases since 2012.

19 YCAO's comments are to two concepts in the proposed Rules: virtual participation  
20 in hearings and disclosure of witnesses.  
21

1 I. Virtual Participation (Rule 203)

2 In Yavapai County, hearings on petitions for court-ordered treatment are almost  
3 exclusively remote. YCAO understands that many smaller counties similarly conduct  
4 many or most of their hearings remotely. In Yavapai County, and many smaller counties,  
5 one or both evaluating physicians is not physically present in Yavapai County, and  
6 conduct evaluations through telemedicine. Such physicians may have busy practices in  
7 Maricopa County or elsewhere. The statutory scheme expressly allows evaluations that  
8 use “remote observations by interactive audiovisual media.” A.R.S. § 36-501(13)(a).

9 Likewise, patients themselves typically appear remotely in Yavapai County.  
10 Unlike some larger counties, Yavapai County does not routinely have court sessions in  
11 evaluation agency facilities, so the only alternative to remote participation would be to  
12 physically transport proposed patients to court. While that option is always available at a  
13 patient’s request, most choose to remain in more familiar settings and avoid being  
14 physically restrained and transported by law enforcement.

15 Accordingly, in Yavapai County and other smaller counties, remote participation  
16 in hearings is the rule, not the exception. The proposed Rule 203 would not fully  
17 accommodate that reality. Rule 203(c) would require an individualized request unless  
18 ordered by the court. Even if the court were to enter a standing order or standardized pre-  
19 hearing order, Rule 203(b) would still require individualized determinations. YCAO  
20 instead suggests that Rule 203(b) should apply the proposed factors only if a party objects  
21 to any person’s remote appearance. Likewise, Rule 203(c) should expressly allow a court

1 to broadly authorize remote appearances without individual findings unless the  
2 requirements in Rule 203(b) are not satisfied or a party objects. Those proposed changes  
3 would retain all the proposed standards for remote appearances but would better allow  
4 courts to operate with existing resources. More barriers to remote participation would limit  
5 access to mental health services in remote locations.

6 II. Disclosure of Witnesses (Rules 209, 402)

7 Hearings on petitions for court-ordered treatment are dynamic. Witnesses  
8 frequently become unavailable due to scheduling, illness or other factors. In addition, the  
9 testimony provided by some witnesses is often summarized in exiting documents.  
10 Moreover, proposed patients' attorneys have statutory obligations to interview witnesses.  
11 A.R.S. § 36-537(B)(3).

12 For those reasons, the witness disclosure obligations in the proposed Rule  
13 402(a)(1) would be problematic in practice for three core reasons. First, there is no need  
14 to require a petitioner to disclose information about the evaluating physicians, because  
15 their identities and evaluation are already contained in their written affidavits and  
16 supporting materials. Second, the requirement to provide a summary of acquaintance  
17 witness testimony, while well-intentioned, risks causing more problems than it would  
18 solve. Attorneys for petitioners typically receive witness information from agencies. They  
19 must then contact those witnesses to summarize their testimony. Adding a requirement to  
20 summarize their testimony would introduce delay before those witnesses could be  
21 disclosed, which undermines the purpose of the Rule. Patients' attorneys must still

1 interview those witnesses, so will learn the nature of their testimony in due course.

2 Third, Rule 402(a)(1) and Rule 402(a)(2) require a “good faith effort” to disclose  
3 witness information within specified periods. That indefinite standard would invite  
4 litigation about what constitutes a “good faith effort.” The Rule also does not specify the  
5 consequences when a party makes a good faith effort but is nonetheless unable to disclose  
6 its witnesses in time. Undoubtedly, a court would order a remedy if required to ensure due  
7 process requirements are satisfied, but the proposed Rule mixes concepts of good faith  
8 with required disclosure, and it is unclear how Rule 209 would apply in such  
9 circumstances.

10 YCAO suggests a modified approach. Rule 209(b) should be changed to only allow  
11 the court to issue a continuance if requested by a party requiring additional time based on  
12 disclosure issues. Rule 402 should require disclosure of acquaintance witness contact  
13 information as soon as practicable and should not apply to evaluating physicians. That  
14 more flexible approach would avoid needless litigation over precise deadlines and the  
15 consequences of a good faith but unsuccessful effort to meet timelines.

16  
17 RESPECTFULLY SUBMITTED this 29th day of May, 2026.

18 DENNIS M. MCGRANE  
19 YAVAPAI COUNTY ATTORNEY

20 By: /s/ Benjamin D. Kreutzberg  
Benjamin D. Kreutzberg  
Deputy County Attorney

21