

Hon. Emmet J. Ronan
Superior Court in Maricopa County
Southeast Court
222 E. Javelina
Mesa, AZ 85210
Telephone: (602) 506-0438
Facsimile: (602) 506-1848
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-11-0043
)	
Petition to Amend Arizona)	Comment to Petition to Amend Arizona
Rules of Protective Order Procedure)	Rules of Protective Order Procedure
Rule 1(M))	Rule 1(M)
_____)	

BACKGROUND

The Domestic Violence Rules Committee (DVRC) was established in 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 developed a stand-alone set of procedural rules titled the Arizona Rules of Protective Order Procedure (ARPOP), which were adopted by the Arizona Supreme Court and made effective on January 1, 2008. The DVRC, having fulfilled its purpose, was disbanded by AO 2008-08 in 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 in 2009. The workgroup met to discuss the petition referenced herein and

provided a draft response to CIDVC on May 8, 2012. 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-11-0043 on the committee's behalf.

DISCUSSION

The State Bar of Arizona has asked the Arizona Supreme Court to amend Rule 1(M), Rules of Protective Order Procedure, to require courts, upon receipt of proof of service of a protective order, to mail a copy of the proof of service to the plaintiff.

While CIDVC supports the idea that notification to plaintiffs is a positive step, the proposal advanced in this petition does not guarantee *timely* notification to a plaintiff.

Current law allows the server of a protective order, whether a law enforcement officer or a private process server, up to seven court business days to file proof of service with the court that issued the order. A.R.S. §§ 12-1809(K), 12-1810(J), 13-3602(L). If the proof of service is mailed to the court, it must be postmarked no later than the seventh court business day. *Id.* The court then has 24 hours to forward a copy of the protective order and proof of service to the county sheriff. *Id.*

Assuming that the server fully utilizes the seven court business days (which, as a matter of logic, would have to include a two-day weekend) , followed by the court's 24-hour turn-around time, followed by a minimum of three days for mail delivery, a plaintiff could receive the notice 13 days after the order has been served. If holidays occur within this timeframe, delivery will be delayed even longer. If the order were served on a Friday, the full seven-business-day timeframe would necessarily include two weekends, making it nearly three weeks before the plaintiff becomes aware that the order has been served.

In circumstances such as these, the goal of providing timely notice to the plaintiff will not have been fulfilled and an undue burden will have been imposed upon the courts. The courts would be required to use resources (clerk time, copies, envelopes, and postage), at a time when they are closely monitoring their budgets, for a purpose that is unlikely to achieve the well-intended result.

The entity in the best position to provide timely notice to the plaintiff is the person who served the order. While it is not within the Supreme Court's jurisdiction to direct law enforcement officers in their duties, the Court does have oversight of private process servers. The Court already requires private process servers to "keep the client reasonably informed about the status of the service and promptly comply with reasonable requests." ACJA § 7-204, Appendix A, Standard 2(e). It is hoped that law enforcement agencies likewise would work with plaintiffs to keep them apprised of the status of service of their protective orders as this would be the most prompt and effective method of making a plaintiff aware that the order has been served.

CONCLUSION

For the reasons stated above, CIDVC respectfully requests that the Court reject Petition No. R-11-0043 and to leave Rule 1(M), ARPOP, intact as currently written.

Respectfully submitted this 18th day of May, 2012.

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