

E-mail sent April 15, 2015 to Edwin Farnsworth, Sonny Borrelli, Randall Friese, Albert Hale, Anthony Kern, J.D. Mesnard, Mike Saucedo

Request for Legislative and Executive Branch Collaboration of "Rule 74 - Parenting Coordinator Function" Revision Process at AZ Supreme Court, R-15-0006 (ref ARS 25-406)

Esteemed Members of the Arizona House Judiciary Committee,

Representing concerned parents, we seek that this committee assign a Subject Matter Expert (SME) to follow this rule change through the revision process which is scheduled to last thru July 13, 2015. (See schedule, Page 10 of 43, PDF doc below). This activity may result in revisions to ARS 25-406 being recommended to this committee. "Judiciary" may wish to collaborate with "Government and Higher Education" in this matter. A similar request is going to the Senate and to the office of Governor Ducey. A petition for a hearing on this matter per Supreme Court Rule 28E is about to be considered by the Supreme Court. Mike Saucedo of the public television program Horizon has been authorized to produce a segment covering this important story.

"Concerned parents" wishes to make every effort to ensure that important stakeholders are aware and involved in the current revision process underway to "improve" the function of the Parenting Coordinator Process as defined by ARFLP Rule 74. We could be wrong, but we suspect that this important activity is largely unknown to the public and to many of the important stakeholders.

Forum of proposals: AZCourts.gov

<http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/forumid/41/postid/2974/view/topic/Default.aspx>

Initial proposal by Judge Barton and her ad hoc committee submitted Jan 8, 2015 (43 Pages)  
R-15-0006

[http://azdnn.dnnmax.com/Portals/0/NTForums\\_Attach/118131888654.pdf](http://azdnn.dnnmax.com/Portals/0/NTForums_Attach/118131888654.pdf)

The revision effort seeks to address four concerns. (ref page 2 of 43 page Jan 8 document)

- 1) PC fees (range, cap, inquiry about parents' finances, length of services, etc)
- 2) Lack of recourse/appeal process for litigants.
- 3) Qualifications of parenting coordinators.
- 4) Scope of authority of parenting coordinators.

As you can read in the above forum Judge Barton and her ad hoc committee has made various proposals. 2 attorney/PCs, Brody and Burns, have registered responses pointing out weaknesses in the ad hoc committee proposals which "concerned parents" largely agree with. Brody and Burns offer little or nothing to address the four concerns and suggest instead that the PC process defined by Rule 74 is working OK as it is. "Concerned parents" strongly disagrees and many members can produce evidence of PC abuses, some rising to the level of Class 2 felonies. Almost without exception the family court Judges exercise blind trust and ignore

reports of PC misconduct so that the abuse and harm to our children continues from one family to the next. No local or state law enforcement agencies will accept criminal jurisdiction over anybody appointed by the court.

Concerned parents will not sit idly by while grievous harm continues to be done to vulnerable families in crisis and the children of this community. Viable solutions are at hand, many of which are ordinary, common place and familiar to all of us. "Successful process function" defined as "maximum benefit to the customer for least possible cost" has been scientifically studied and documented. The most commonly utilized version of this body of knowledge is ISO-9001. ISO-9001 is all around you. Your store receipts probably solicit your participation in a customer survey. Car salesmen ask customers to respond to the survey and give them high marks because it affects their pay. With this data managers can identify problems and take corrective measures. Without data, you are flying blind. Are attorney/PCs Brody and Burns correct that Rule 74 is fine as is, since there is nothing more than a few isolated and obscure problems? Are concerned parents correct when they assert that some of these PCs are a disaster for countless families and children abused by them? Without any objective data there is no way to know.

Fortunately some admittedly imperfect data does exist. Online forums register both praise and complaints against individual members of various professional groups. For instance, research on attorney Brody registers some praise and "zero" complaints. We may presume that attorney Brody is likely doing a decent job. Attorney Burns registers some praise and has "two" complaints. Out of the hundreds of clients she has served this may well be a small number but perhaps she could institute measures to improve her practice. My PC has 27 complaints registered against him. My PC advised us to furnish pornography to our teenage son which is a class 4 felony. Jan 2015 the court was advised of this and numerous other offenses committed by this PC yet he is still accepting new appointments and charging thousands of dollars to make people's lives worse while harming children, creating problems which in turn need to be fixed by him, churning billable hours. The simple truth is what we intuitively already know; all PCs are not created equal.

There are some 240 PCs on the court roster. "Concerned parents" does not wish to focus on one or two bad apples. We seek the implementation of an objective performance measurement for all PCs, a simple customer satisfaction survey with one question "How well did your PC do his or her job? which is to assist parents in making parenting decisions in the best interests of the children and in accordance with the parenting plan, as set forth in their decree or the current court order." (ARFLP Page 188) Clients can rate the PC with a simple number from 1 (bad) to 10 (excellent). A simple 24 month rolling average of this number posted online would motivate behaviors consistent with what we all want, PCs doing their jobs well. A second obvious question might be "How much did it cost you to get the result posted by you in question #1?" With this information, value provided per dollar spent could be easily calculated and displayed online. Concerned parents asserts that this powerful information made available to prospective PC clients would in large measure automatically address all four of the concerns listed above.

Concern #2 would also include perceived lack of judicial oversight and a similar simple solution is put forward in Problem/Solution #3 of the March 13 filing in the court forum.

Immunity for PCs has been widely accepted as absolute and complete judicial immunity since they are appointed by the court. This is contrary to statute which can be found in the annotations for ARS 25-406 Book 173 Page 97 in the ASU Law Library or on LexisNexis. PCs are not judges and have no power to make law or issue judicial orders. They are ministers of existing laws and existing orders. The PC and I are equals in that we can both recommend that the judge issue an order. We are also equals in that neither of us have judicial immunity. The exact nature of what immunity PCs do have or should have, must be hashed out and clearly identified in Rule 74 and probably in ARS 25-406 as well. This item also relates to concern #2.

For concern #3, ARS 25-406(C) requires training for PCs. I tried to sign up for and take the training to see what the training was like. What I discovered was astounding. I'm not sure if my findings represent an imminent danger to the community but it would constitute a "major finding" and thus a failure of an ISO 9001 audit and decertification. The difference between what the law says and what is actually happening needs to be reconciled and clarified.

Since Rule 74 is governed by ARS 25-406 it would seem obvious that all branches of State Government and the public be part of a collaborative effort to produce the best product we can. We should be able to reach consensus on 80 or 90% of the items at hand. High level decision makers can settle the remaining disagreements with the welfare of traumatized families and children in mind. Harm to vulnerable families in crisis and children, is unacceptable to "concerned parents" and should be unacceptable to everyone else. Let us collaborate to ensure that all reasonable measures have been taken so that our families and children are protected.

Sincerely,  
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