Comment to Petition to Amend Rule 74 of the Arizona Rules of Family Law Procedure, Supreme Court Number R-15-0006.

Submitted by Alyce Pennington, Commissioner of Pima County Superior Court, as an individual and not for the Bench of Pima County

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I have been an attorney since 1982, and was a certified specialist in family law prior to taking the bench in December, 2012. I served as a parenting coordinator for many families. Some of those families would have few issues and only need assistance for a year. Other families I served for several years with regular, often several times per month, intervention. I also represented clients who utilized the services of a parenting coordinator. As a commissioner, I continue to appoint and review the work of parenting coordinators. I also serve as one of the court liaisons to the parenting coordinators through the regular meetings of the parenting coordinators, hosted by our conciliation court. Pima County Conciliation Court also acts as a parenting coordinator for those families who are not economically able to afford a private, paid parenting coordinator. It is from this background that I would like to personally comment on the proposed rule changes.

The good work and purpose of the program of parenting coordinators is to have very quick resolution of issues in high conflict cases for families who often have repeated court involvement. That court involvement can add to the conflict, and the use of a parenting coordinator can be much less expensive than paying attorneys. The use of a parenting coordinator does not include attorneys. The parenting coordinator can often model new behaviors of conflict resolution, give the parents new strategies of how to problem-solve and how to communicate by pointing out how certain language only adds to the parental conflict and causes problems in the ability to co-parent.

My comments to the proposed revisions include:

1. Section (B) (2) should add not just protracted but also repeated litigation

2. I agree that the parent coordinator should be able to bring to the Judge's attention that the judge should consider an adjustment to the allocation of fees as set forth in (F) (2) , but I urge that the recommendation should be filed with the clerk and a copy to the judge and a copy to both parents/attorneys. To have documents not placed in the file is not the normal process and the judge should not receive pleadings/documents that are not part of the court file. This does not leave a road map to the next judge of all the court has previously considered in the case.

3. I disagree with (F) (3). First, I do not think that a blanket requirement to only 2 hours retainer will be sufficient in many cases and it ties the judicial officer's hands in very

complex cases, or those that the judicial officer knows will require a lot of work based upon the parties' history. Second, I think that this section is internally inconsistent. If a parenting coordinator does not require a retainer of 2 hours of time, he or she could (under my reading of the rule) charge $20,000 for each decision presented, and then the parenting coordinator would have to wait for each parent to provide the retainer prior to moving forward with decision-making. (This is a far fetched example, but possible under my reading of this section). I would think it best to leave the retainer up to the judicial officer at the time of appointment. Two hours is not sufficient for a retainer in most cases.

4. Section (K) seems to add a layer of cost and delay to the parenting coordinators' expedited decision-making. Perhaps a section that cautions parenting coordinators from obtaining unnecessary documents is appropriate. A parenting coordinator may have an expedited issue that such notice regarding interviews would truly slow down the process and one of the best features of the program is the quickness of decisions. We do not require Court Advisors nor any other court appointed professionals to indicate who he/she intends to interview prior to doing so.

5. Section (L) requires that the parenting coordinator report is sent to the judge and not to the clerk. This is the same objection as above in number 2. This report should be presumed to be part of the file. If there is a particular rare issue that the parenting coordinator believes is sensitive, the parenting coordinator could speak generically about the issue and indicate that a separate document with sensitive information is being sent to the judge and the parties/attorneys for the court's consideration of placing it in the file under seal or not under seal.

6. Section (O) requires the court to issue an interim order pending resolution of the objection. The Court will not have the information that the parenting coordinator had, and thus my preference is that the recommendations, if time sensitive, shall remain as recommended by the parenting coordinator pursuant to (I) (1). If the issue is not time sensitive, the court should rule after receiving evidence.