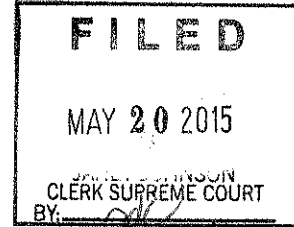


RECEIVED

MAY 20 2015

CLERK SUPREME COURT



1 Honorable Jeffrey T. Bergin  
 2 Family Law Presiding Judge  
 3 Honorable Kathleen Quigley  
 4 Juvenile Court Presiding Judge  
 5 Honorable Sarah R. Simmons  
 6 Presiding Judge  
 7 Arizona Superior Court in Pima County  
 8 110 West Congress  
 9 Tucson, AZ 85701  
 10 (520) 742-3527

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

11 PETITION TO AMEND RULES 31,  
 12 34, 39, AND 42 RULES OF THE  
 13 SUPREME COURT

} Supreme Court No. R-15-0018  
 } COMMENT OF THE ARIZONA  
 } SUPERIOR COURT IN PIMA  
 } COUNTY REGARDING PETITION  
 } TO AMEND RULE 31 OF THE  
 } RULES OF THE SUPREME COURT

17 The Family Law Presiding Judge, The Juvenile Court Presiding Judge and  
 18 the Presiding Judge of Arizona Superior Court in Pima County, pursuant to Rule  
 19 28, Arizona Rules of the Supreme Court, support the comment of the Superior  
 20 Court of Arizona, Maricopa County, regarding the petition to amend Rule 31 of  
 21 the Rules of the Supreme Court authored by the Honorable Janet Barton,  
 22 Associate Presiding Judge, of that Court.

23 Judge Barton addressed the primary reasons for concerns about the  
 24 petition. Pima County shares in those concerns and, like Maricopa County,  
 25 would be severely hampered in its efforts to serve the public and the families  
 26 who are involved in dissolution, special paternity and juvenile cases if Rule 31  
 27 were to be changed as presently proposed in the petition. The Superior Court in  
 28 Pima County has a Family Center of Conciliation Court (FCCC) which provides

1 mediation services for all family law cases in which legal decision-making and  
2 parenting time are at issue. FCCC is currently budgeted for 12 full-time  
3 counselor/mediator positions. In fiscal year 2013 - 2014, FCCC had 1909  
4 referrals for mediation alone. Of those referrals, 1567 were completed by the  
5 end of the year with 64% of those cases reaching a full or partial agreement.  
6 Only 53 objections to mediation agreements ( .03% of the completed  
7 mediations) were filed in that same time period. The FCCC's policy is to  
8 require signatures of the parties and approval of the involved attorneys, on all  
9 mediation agreements. Obviously, FCCC is highly effective operating within  
10 the current rules

11 The mediators who work for FCCC are not only trained in mediating  
12 family law cases but also are trained in the craft of reducing those agreements to  
13 writing. If a mediator is without mediation training prior to being hired by  
14 FCCC, the mediator must complete 30-40 hours of mediation training. This  
15 training includes how to effectively draft an agreement. Additionally, the FCCC  
16 provides ongoing training to its staff that focuses on the mediation process and  
17 drafting agreements.

18 New mediators participate in an informal mentoring program where  
19 experienced mediators monitor their work and even co-mediate cases. This  
20 ensures all mediators are well trained and effective prior to taking cases on their  
21 own. Training of this nature lasts between two and four months. A significant  
22 portion of this training focuses on how to appropriately draft agreements. When  
23 a new mediator drafts an agreement during the training period, the agreements  
24 are reviewed by the more experienced, mentoring mediator. FCCC also  
25 maintains an internal monitoring process that reviews agreements prepared by a  
26 training mediator until management is confident the mediator is proficient.

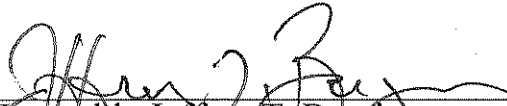
27 Similarly, the Children and Family Services Division at Juvenile Court  
28 offers mediation to parents involved in child welfare/dependency cases focused


1 upon reaching agreements on case related issues. The Children and Family  
2 Services Division is equally well trained and effective in Juvenile Court just as  
3 FCCC is in Family Court. Further, there are only two licensed attorneys that  
4 work within the Child and Family Services Division. Each attorney maintains  
5 her license at a cost of \$475 per year as a personal expense. There are no  
6 certified document preparers working within the Child and Family Services  
7 Division.

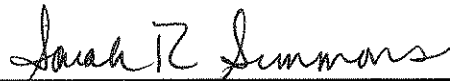
8         The Superior Court in Pima County does not have the necessary funds this  
9 rule change would require to pay for its mediators to obtain document preparer  
10 certification. Requiring such certification would severely hamper the FCCC's  
11 and Child and Family Services Division's ability to perform their work. If this  
12 proposed rule were to go into effect as written, the only alternative the Court  
13 would have would be to replace experienced, competent mediators with either  
14 certified document preparers or licensed attorneys. This would significantly  
15 increase the cost to the Court when there is no evidence that the effectiveness of  
16 the current process needs improvement or, that the current process would, in  
17 fact, improve with the proposed rule change. The Superior Court in Pima  
18 County believes the proposed rule change would unnecessarily and significantly  
19 increase the cost associated with its already highly effective Family and Juvenile  
20 Court mediators.

21         For these reasons, and for the reasons articulated by Judge Barton in her  
22 comment, the Arizona Superior Court in Pima County requests that the Supreme  
23 Court either continue the current exemption for non-attorney mediators  
24 employed or appointed by the court and acting under the direction of the court or  
25 include a specific exemption from this proposed rule for court staff or those  
26 appointed by the court.

1 Respectfully submitted this 18<sup>th</sup> day of May, 2015.

2  
3   
4 Honorable Jeffrey T. Bergin  
5 Family Law Presiding Judge  
6 Arizona Superior Court in Pima County

7   
8 Honorable Kathleen A. Quigley  
9 Presiding Judge  
10 Arizona Juvenile Court in Pima County

11   
12 Honorable Sarah R. Simmons  
13 Presiding Judge  
14 Arizona Superior Court in Pima County

15 Original and six (6) copies <sup>mailed</sup> delivered this  
16 18<sup>th</sup> day of May, 2015 to:

17 Clerk of the Arizona Supreme Court  
18 1501 W. Washington, Suite 402  
19 Phoenix, AZ 85007

20 Copy mailed this  
21 18<sup>th</sup> day of May, 2015 to:

22 David K. Byers, Director  
23 Administrative Office of the Courts  
24 1501 W. Washington  
25 Phoenix, AZ 85007-3231  
26  
27  
28