

Petitioner: Martin D Lynch
"Concerned Parents"
"National Parents Organization"
Chairman of the Legislative Committee – AZFR
Manager of We The People Court Services LLC
1120 W Broadway Rd, Apt 55, Tempe AZ, 85282-1255
602-550-6304
MDL2222222222@gmail.com

IN THE SUPREME COURT

STATE OF ARIZONA

THE WORKINGS OF THIS COMMITTEE ARE) Supreme Court Number
CLEARLY NULL AND VOID PER ARS 38-431.05) R-15-0006
THE CONSTITUTIONAL RIGHTS OF THE PEOPLE)
SHALL NOT BE ABRIDGED)

To the Honorable Justices of the Arizona State Supreme Court,

At the last meeting of the committee on June 24, ABC15 was illegally denied access to film the Public Meeting of this committee. The Committee was notified of this illegal act on 6/26 via this forum. Since then, We The People have noticed that there are those continuing on as if the new Rule 74 is a done deal, while nothing could be farther from the truth. Even though the Rule 74 committee has been notified that Public Meeting Laws have been broken, there is no evidence that actions are being taken or even contemplated to follow the steps for ratification as prescribed in the statute.

To be fair, formal complaints have yet to be filed per ARS 38-431.06 and ARS 38-431.07. This is because study of the legal requirements have uncovered other violations of the statute most notably ARS 38-431.02 A.1.(a) "Conspicuously". Until this violation of the Public Meeting law has been corrected, valid ratification actions cannot take place for this Rule 74 Committee and the integrity of the work products of all Rule Committees have been placed in like jeopardy. Since this committee has chosen an adversarial position, trying to suppress and silence

opposition while pushing a revised Rule 74 that fails to protect the public from abuse and harm and continued violations of our civil rights, very detailed and time consuming documentation is required to prevail against this entrenched bureaucracy and moneyed interests. If this Committee were not adversarial to the welfare of the Public while violating our civil rights, this mess could be cleaned up in a few days. Instead, somebody has to sit down and write a novel once a week to defend our families and our liberties.

Problems and Proposed Solutions:

1) Improper Relationships that are “Prejudicial to the Administration of Justice” and thus a violation of our “Rights to Due Process” as follows. PCs and Judges consider themselves all members of one big happy judicial family. A Parenting Coordinator can take a Judge out to lunch and later, as an adversary to a litigant, make an illegal ex-parte phone call to the judge who will most likely subsequently rule in favor of his golfing buddy and trusted pal, the Parenting Coordinator. As a litigant, I can’t converse with the Judge in the elevator. The obvious solution is to insert into Rule 74 that **“Since the PC may find themselves in an adversarial position to either of their clients before the Judge, it is necessary that the PC / Judicial relationship conform to Rule 81 Cannons 1, 2 & 3 at the time of the appointment and throughout the duration of the case. If at any time these standards are breached, the PC must decline the appointment or resign. Neither the Parenting Coordinators, nor any affiliated persons or businesses, may make campaign contributions to any Judges.”**

We The People understand that Judges and PCs like things the way they are, where they can do whatever they want, even if it means breaking the law or violating our Constitutional Rights. After all, the culture in Family Court allows all of these things which are not written down anywhere, but are so much fun and profitable. The Rule 74 Committee and ultimately the Supreme Court must make a decision. They can save us all a lot of trouble by inserting these protections of our due process rights into Rule 74, or in the next legislative session “We The People” will be forced to petition the legislature to insert this language into the statute and seek that the penalty for violating this law be a class 2 felony, subject to mandatory sentencing guidelines.

2) Denial of access to the Judge and the Justice System and thus a violation of our “Rights to Due Process” as follows. The standard PC order of appointment instructs litigants to direct matters of concern to the PC, and not the court. Anything sent to the court must include an affidavit substantiating that the PC was contacted first, but the outcome was not satisfactory. Nowhere does it state that the judge must then look at the affidavit or the complaint. This must be why in actual practice it is clear that judges do not look at affidavits or documents once a PC has been appointed to the case.

Adding to this problem is the fact that some litigants can go for years, over a decade, from one PC appointment to the next with only management of ongoing conflict, with no resolution. Some families have been known to spend \$70,000 for perpetual PC services managing conflict all the while being denied access to the Judge.

We the People wish to propose a solution to both of these problems. If the conflict persists for months or years then the problem is not being appropriately addressed by endless PC appointments. It is important for everyone to understand that **not all decrees are perfect** and mistakes will be made. Custody evaluators are not infallible. Perhaps one of the parents is an alcoholic and prone to poor judgment and joint custody and joint decision making and 50:50 parenting time are not working. Of course there is going to be conflict and harm to the children and the solution is not to pay PCs to ineffectually manage these unsolved problems forever. If after a reasonable time conflict persists, it may be presumed that the decree is defective and that the case should default back to the judge for another try at getting it right via modifications to be considered and implemented based upon the evidence. **A PC appointment should not be for more than 7 months. Thereafter, if excessive conflict persists, the case needs to go back to the judge so he can fix the mistakes in the decree based upon evaluation of the evidence. The decree can be corrected by means such as re-designation of primary custody, decision making, allocation of parenting time, etc, via the powers vested in the court by statute.**

We The People understand that the big happy judicial family which includes Judges and PCs prefer PC appointments that last for years and pay \$70,000 and we expect opposition to this

proposal for that simple reason, money. We The People are concerned with our rights to access to the justice system and our due process rights and resolving conflict so that families and children can be protected. Therefore the Rule 74 Committee or the Supreme Court could insert the above language into Rule 74 and we would not need to bother the legislature. Which will it be?

3) Full Judicial immunity for PCs who are merely Quasi-judicial officers of the court? This would shelter PCs even if they intentionally cause harm or intentionally perpetrate a fraud upon the court. This is completely contrary to AFCC guidelines (**Exhibit A**). If you examine the latest version of Rule 74 it merely states “The parenting coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court.” Page 46 of 50 (**Exhibit B**) contains a discussion of the “Immunity” topic. They unanimously voted to “follow existing law” but they do not state which existing statute they wish to follow. ARS 25-405 and ARS 25-406 do not contain the word “immunity” or have any similar reference. The only reference to immunity may be found in the annotations to these statutes “Lavit v Superior Court” which states “Activities which are ministerial and not part of the clinical and reporting functions or activities contrary to a court order are unprotected.” ARS 12-820-02 confers only “Qualified Immunity” unless the persons “intended to cause injury or were grossly negligent.” This vague language in Rule 74 deliberately allows the Family Court to **pretend** that the ministerial function of Parenting Coordinator enjoys absolute Judicial immunity when they actually in fact enjoy no such thing.

This pretend judicial immunity is exceedingly dangerous because it allows PCs to cause harm to families and their children if they do not pay the money demanded by fabricating fraudulent accusations and presenting them as facts to the very judge they have the improper relationship with. We The People do not like being extorted and our children being harmed by agents of the Family Court who foster endless conflict so they can keep taking our money.

This committee, or the Supreme Court, or the Legislature, or the Federal District Court must clarify this vagary of smoke and mirrors. We The People deserve better. If you want to declare judicial Immunity for PCs contrary to every other document and legal precedent then just do it.

Stand up for your position and defend it. If not, stop pretending! Declare “The parenting coordinator has quasi-judicial immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court. No immunity exists for acts undertaken contrary to the order of appointment, gross negligence, intent to cause harm or intentionally perpetrating a fraud upon the court.” and the conflict disappears.

It is inadequate to say that “We the people” are fed up with thousands of families and children being fleeced and destroyed simply to furnish this criminal syndicate with an endless supply of money. “We the people” will never accept anything other than real reform that provides protection for our families and our innocent children. Nobody seems to understand this.

How far are “We The People” willing to go to protect our families and our liberties? Isn’t it obvious by now? For 240 years we have proven it over and over again to all of those who need to be reminded. The answer is “Whatever it takes”. The real question is how far are the enemies of freedom willing to go to try to take our liberties away from us? One thing is certain, we will not be ruled by King George, King Barton, a corrupt PC, or any other such person.

We expect the Arizona Judiciary to follow the law. We really don’t need the legislature or the Federal Courts, the Constitution is right there. Take a look at it and then do your job. We The People are now collecting signatures to amend the Arizona State Constitution to bring juries to the Family Court. Perhaps We The People can lend a hand and help separate the good ideas from the non-sense.

Respectfully and Sincerely,

August 19, 2015

Martin Lynch *Martin Lynch*

4. Submission and Objection to PC Recommendations and Reports to Court:

There is variation in the destination of the PC's recommendations and decisions. In most, but not all jurisdictions, where PCs are appointed by court order, the PC is expected to send all recommendations, reports, and orders of decision to the court, as well as to each parent and any attorney. Where there is no court-appointed authority, PCs should prepare recommendations, reports, and decisions in such a manner that the court can access the information if requested.

5. Parent Grievances Regarding the PC and Objections to Recommendations and Decisions:

When PCs are appointed by the court or by consent agreement, it is important that the order contain clear language and procedures to handle parent grievances regarding the PC and to handle parent objections to the PC's recommendations and decisions, including wishes that the PC be removed. Some orders include language that indicates that the PC can be removed or disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator. It has been found to be helpful to articulate a series of steps for managing such grievances, which may stem from PC's acting in an unprofessional manner or may arise from anger about the PC's recommendations or decisions which were not favorable to the complaining party. These procedures have been developed to protect PCs from unfounded complaints to the professionals' licensing boards and also to provide parents with sanctioned avenues for seeking redress.

One grievance model requires that the complaining parent first set up and attend an appointment with the PC to discuss the grievance, prior to initiating any court proceedings for removal or complaining to the licensing board, in an attempt to resolve the grievance. If no resolution is reached, both parents and the PC then attend a judicially supervised settlement conference prior to any action being taken. The court reserves jurisdiction to determine if the PC's time and expenses should be reimbursed in part or totally, including any attorney's fees incurred by the PC. If either the complaining party or the PC believes that the complaint cannot be resolved, either party can file a motion to the court to terminate the PC's services. The judge is the final gatekeeper on the grievance process unless there is a PC certification body.

As an arm of the court with judicially delegated authority, PCs should be afforded quasi-judicial authority and immunity to protect them from lawsuits.

6. Standard Procedures and Literature:

Parenting coordination programs may consider developing and adopting a standard parenting coordination information pamphlet that describes in clear and simple

APPENDIX C

	substantially impacts existing court orders, or denies a request for a substantial change in existing court orders, should trigger a mandatory hearing upon request by either party. Also add, “A mandatory expedited hearing will be triggered at the request of either party when malfeasance has been claimed on the part of the FC.”	recommendations that would substantially change existing legal decision-making or parenting time orders. Therefore, there is no need for the triggering of a mandatory expedited hearing.
N. Complaints about Unethical or Unprofessional Conduct by Parenting Coordinators	No Comments.	<u>Which "existing law"? Intentionally vague and thus open to interpretation as Judge Barton sees fit. Instant judicial immunity out of thin air.</u>
O. Immunity	<p>Parenting Coordinators should not have immunity.</p> <p>The court should be able to hear a complaint about a PC's conduct - I am for 'quasi-immunity' for the PC position.</p> <p>Replace entire paragraph with “The family counselor has civil immunity only as it relates to the duties consistent with the appointment order. There is no immunity as it relates to violations of criminal or</p>	<p>The committee believed that <u>existing law</u>, rather than the committee or Rule 74, should dictate what immunity, if any, the parenting coordinator has. Thus, the committee voted unanimously to retain the language as submitted in the Amended Petition.</p> <p>The committee voted unanimously to retain the language as submitted in the Amended Petition.</p> <p><u>This "vote" was taken while the Public Meeting law was being violated and is therefore NULL and VOID.</u></p>

Exhibit B