



March 30, 2016

William G. Klain and David B. Rosenbaum  
Task Force on the Arizona Rules of Civil Procedure  
1501 West Washington Street, Ste. 410  
Phoenix, Arizona 85007

**Re: R-16-0010, Proposed Amendments to the Arizona Rules of Civil Procedure**

Dear Mr. Klain and Mr. Rosenbaum,

We reviewed the proposed amendments to the Arizona Rules of Civil Procedure, out for initial comment until April 1, 2016. We are seeking clarification regarding an ambiguity in proposed Rule 35(d)(2).

Current Rule 35(b)(1) states in pertinent part: “[i]f requested by the party against whom an order is made under Rule 35(a) or the person examined, the party causing the examination to be made shall deliver to the requestor, within twenty days of the examination, a copy of the detailed written report...” (Emphasis added).

In contrast, as amended, proposed Rule 35(d)(2), states in pertinent part: “[t]he party who is examined—or who produces the person examined—may request the examiner’s report, like reports of the same condition, and written or recorded notes from the examination. Upon such request, the party who moved for or noticed the examination must, within 20 days, deliver to the requestor copies of:...” (Emphasis added).

As proposed, it is unclear whether the 20-day deadline to deliver the requested documents is intended to be triggered from the date of the request or the date of the examination. The language of current Rule 35(d)(2) is clear that the triggering event is the examination itself. However, in proposed amended Rule 35(d)(2), the phrase “within 20 days” could be interpreted to be within 20 days of the request or within 20 days of the examination.

We note that subsection (C) of proposed Rule 35(d) requires the delivering party to deliver all written or recorded notes made by the examiner. Thus, it would seem to make sense that the deadline to deliver the requested documents be within 20 days of the examination. However, the proposed language of Rule 35(d)(2) does not make that clear.

Was it the Task Force’s intention to change the event that triggers the deadline to deliver the documents to the examined party? If so, we respectfully request that the proposed rule be amended as follows: “Upon such request, the party who moved for or noticed the examination must, within 20 days [after the request], deliver...”

If, however, it was the Task Force’s intention to remain consistent with the current version of Rule 35 in which the 20 day deadline is measured from the date of the examination, we respectfully request that the proposed rule be amended as follows: “Upon such request, the



party who moved for or noticed the examination must, within 20 days [after the examination], deliver..."

Aderant CompuLaw is a software-based court rules publisher providing deadline information to many law firms practicing in Arizona courts. These firms use our software to calendar deadlines based on the applicable rules, including the Arizona Rules of Civil Procedure. Thus, this issue is very important to us.

Thank you for your time and consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Jenny Yu". The signature is written in a cursive, flowing style.

Jenny Yu, Esq.  
Rules Attorney