



## SOUTHERN ARIZONA LEGAL AID, INC.<sup>®</sup>

3 May 2021

Committee of Presiding Judges  
c/o Administrative Office of the Courts  
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Dear Committee of Presiding Judges:

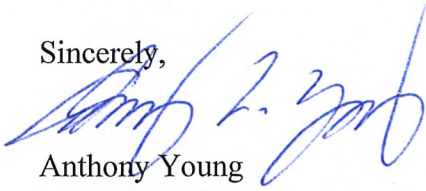
Southern Arizona Legal Aid, Inc., joins the Pima County Bar Association, the Arizona chapter of the American Academy of Matrimonial Lawyers (AAML), Judge Sakall, and other esteemed colleagues in opposing this rule change petition. Family Law attorneys have used this rule sparingly to achieve a more equal forum for specific clients in specific situations and little evidence of abuse of this rule has been presented. This is especially true in the smaller counties where we practice where the relationship between Judges and the bar relies on the maintenance of ethical practice by lawyers appearing frequently before the bench. Reputation is of paramount importance and this operates as a control on any lawyer frequently abusing the rule for purposes of delay. As others have pointed out, judges are human and we cannot expect them to maintain super-human objectivity. In rare cases, this rule has been necessary to achieve a more just result for low-income and diverse clients who historically have experienced systemic and often implicit oppression and bias.

As our colleague, Ann M. Haralambie has pointed out, the personal and discretionary nature of family law cases can lead to contrasting results for the same family in front of different judges with their varying backgrounds and personal beliefs. Without this rule, if the litigant does not notice the judge, the litigant could be stuck with potentially unfair results without recourse to appellate relief given the deference given to trial court discretion. Alternatively attorneys, or worse, individuals appearing *pro per*, would have to ask a judge to recuse themselves and state the cause on the record. They would be reliant on the judges themselves to rule on their own potential bias, which they may not be aware of, to the detriment of the client (and potentially the lawyer's reputation). The current rule does not require a judge to rule on his or her own potential implicit bias and this is sometimes the most peaceful way to achieve justice in an imperfect

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human system. Judicial economy must give way to an infrequently used tool that offers a way of putting a person on more equal footing in court while their lives, freedom, finances, future, and custody of their children are being decided by an honorable yet human person. It is heartening to see the unity in the judiciary and bar opposing this rule change.

Sincerely,



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