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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-21-0010
PETITION TO AMEND RULE 16 OF)	
ARIZONA RULES OF PROTECTIVE)	Response to Comments to Petition
ORDER PROCEDURE)	

The Committee on the Impact of Domestic Violence and the Courts (CIDVC) and Southern Arizona Legal Aid (SALA) have commented on Petition No. R-21-0010 (the Petition) submitted by the Domestic Violence Law Clinic of the University of Arizona (DVLC).

Both CIDVC and SALA recognize and support a rule clarification for the issue raised in the Petition with respect to the Rules of Protective Order Procedure. Both SALA and CIDVC agree that petitioners seeking Order of Protection should be allowed to amend their petitions to allow testimony as to additional incidents not on the original petition at contested hearings.

As SALA’s comment duly notes, petitioners seeking Orders of Protection often leave out relevant and important acts of domestic violence. SALA eloquently summarizes that this is a “function of lack of knowledge of what crimes qualify as enumerated acts of domestic violence” as well as a function of a “victim of domestic violence coming to terms” with their own victimization. SALA and CIDVC both note, in support of the DVLC’s Petition, that the current

process for amending a petition has been ad hoc and confusing for petitioners as well as respondents because the Rules of Protective Order Procedure are silent on this issue.

CIDVC makes an alternative rule change proposal. Under CIDVC's proposal, the respondent would be offered three options after being presented with a copy of the amended petition: (1) request a continuance to a future date, (2) ask for a brief recess to prepare to meet the additional allegations, or (3) waive both a continuance and a recess and proceed with the contested hearing. These options will provide the respondent with notice of the additional allegations and an opportunity to prepare his or her opposition to them.

The DVLC is in support of CIDVC's proposed rule amendment. Formalizing the procedure for amending Order of Protection petitions in the manner proposed by CIDVC will achieve justice for survivors of domestic violence, serve judicial economy, and respect the Due Process rights of respondents in such cases. As stated in *Savord v. Morton*, Due Process requires that the respondent "receive notice, reasonably calculated to apprise him of the action in order to adequately prepare his opposition." *Savord v. Morton*, 235 Ariz. 256, 260 (Ct. App. 2014). CIDVC's proposed rule amendment provides such notice.

For all the reasons stated above, DVLC is in support of CIDVC's proposed rule amendment and respectfully asks the Court to adopt CIDVC's proposed amendment to Rule 38, Rules of Protective Order Procedure, as set forth in the Appendix of CIDVC's comment. Thank you for your consideration.

Respectfully submitted this 1st day of June, 2021.

/s/ Negar Katirai

Negar Katirai
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Attorney at Law