

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS  
MINUTES**

August 9, 2006

10:00 AM –2:00 PM

State Courts Building,

1501 W. Washington St, Room 345 A&B

Conference Call Number: (602) 542-9003

CIDVC Website: <http://www.supreme.state.az.us/cidvc/>

**MEMBERS PRESENT**

Hon. William O'Neil, Chair (Proxy for Hon. Jeanne Hicks)

Barbara Appenzeller, CPA

Evelyn Buckner, MSW

Lt. Mark Carpenter

Capt. Larry Farnsworth

Joan Fox, DDS

Hon. Wendy Hernandez

Kristen Hoffmeyer, Esq.

Bridget Humphrey, Esq.

Hon. Ronald I. Karp

Sheri Lauritano, Esq.

Hon. Dennis Lusk

Hon. Michelle Lue Sang

Jerald Monahan

Hon. Mark Moran

Hon. Carolyn Passamonte

Doug Pilcher

Robert Roll

Leah Myers (Proxy for Dale Wiebusch)

Tracey Wilkinson (Proxy for Patricia Klahr)

**MEMBERS ABSENT**

Tracy Hannah, Esq.

Hon. Ellie Brown

Hon. Sherry L. Geisler

Hon. Benjamin Zvenia

**STAFF PRESENT**

Konnie Neal, Specialist

Kim Ruiz, Support Staff

Lorraine Nevarez, Support Staff

**Quorum: Yes**

**GUESTS**

Pat Wuensche

## **I. CALL TO ORDER**

### **A. WELCOME AND OPENING REMARKS**

Judge Mark Moran, acting chair until Judge O'Neil arrived, called the August 9, 2006 meeting for the Committee on the Impact of Domestic Violence and the Courts to order at 10:10 am. All members introduced themselves, and Judge Moran welcomed new members and reminded members of the open vacancy for a Vice Chair for this committee. Konnie Neal encouraged members to forward recommendations to her for the following committee membership vacancies: medical doctor, Attorney, Service Provider and Coalition Member. She also reminded the members about the importance of participating in the workgroups and recommending non-committee members to join workgroups.

### **B. APPROVAL OF MINUTES FROM May 3, 2006**

Minutes for the May 3, 2006, Committee on the Impact of Domestic Violence and the Courts meeting was presented for approval.

**MOTION: Motion was made and seconded to approve the May 3, 2006 meeting minutes as amended. Motion passed unanimously. 19-0-0. CIDVC-06-010**

## **II. Satellite Broadcast: ARPOP & Project Passport**

Konnie Neal gave a brief review of ARPOP & Project Passport, a national effort to make the first page of all Orders of Protection look the same with similar information. She also encouraged members to participate in the upcoming broadcast. The Satellite Broadcast is a great way for courts to receive information about projects the committee is working on such as New Protective Order Forms and Domestic Violence Rules. The Broadcast is going to be aired on September 12, 2006 to 32 sites across the state. Copies of the broadcast will be available at the request and will also be sent to courts for subsequent local trainings.

## **III. Protective Order Forms Automation/Implementation Update**

Konnie Neal introduced Pat Wuensche, Domestic Violence Automation Trainer along with Robert Roll, Warehouse Manager, who has been implementing the new protective orders through automation and technology. Robert Roll and the Warehouse and Integration Group on the Impact of the Repository looked at the fields that are needed in the new forms and gave it a gap analysis of what we have now and what it takes to get it into the new system. They are going to meet with the Non-AZTEC courts to look at the draft specs and review the solution the Warehouse and Integration group came up with in order to get there input and determine what it will take them program the additional fields. Pat Wuensche and the Automation Group looked at the DV Module and decided to rewrite it. The DV Module will be released in conjunction with the new forms. Some of the enhancements that want to be included are automatically printing out certain forms, such as, the defendant guide sheet which will come out with the order, putting in dates and judges names, and automating docket entries for the clerks. The main goal is to make the process smoother for everyone.

#### **IV. DOMESTIC VIOLENCE RULES COMMITTEE REPORT**

Judge O'Neil has been making reports to bar groups and different advocate groups. Additionally, Tucson has an Annual Coalition Conference that he will be providing the closing preliminary session. He expressed his hope to have members' suggestions for the final modification before the petition goes for approval. The petition is due November 1<sup>st</sup>.

#### **V. ARPOP & NEW PROTECTIVE ORDER FORMS (JUDGE FINN'S PRESENTATION)**

Judge Finn presented the PowerPoint presentation at the Judicial Conference to the Limited Jurisdiction Court Judges. The presentation included very specific information about the new forms.

#### **VI. BEGIN REVIEWING ARPOP FOR CIDVC APPROVAL**

ARPOP clearly addresses three areas: Orders of Protection, Injunction Against Harassment, and Injunction Against Workplace Harassment. There are nine rules of protective orders with multiple subparts. This was done to give people categorization for review. Judge O'Neil has asked the Committee to please review these before members make any more presentations and request approval of the proposed Rules. The Rules were reviewed as a group and Committee consensus was reached on the following changes:

##### **A. RULE 1: GENERAL ADMINISTRATION**

- It was agreed that statute A.R.S. § 12-1810 be added to *section A: Scope of Rules* in replacement of A.R.S. §12-1809 which is not governed by workplace harassment.
- It was agreed to add statute A.R.S. § 12-1810 be added to *subsection c: Injunction Against Workplace Harassment* in replacement of A.R.S. §12-1809 which is not governed by workplace harassment.
- It was proposed and agreed in section C: *Access to the Courts* to clarify "at all times" to mean "during normal operating hours." And to add an additional sentence to explain emergency orders of protection by adding "For emergency order of protection after normal operating hours see Rule 6(D)."
- Concern was stated that the language within section C: *Access to the Courts* referring them to "a law enforcement agency" did not apply this to section. It was agreed upon and deleted.
- It was proposed and agreed upon in section K(1). to delete the words "to believe that the..." and replace it with the word "under" adding the words "protective order" and deleting the words "has been violated."
- It was suggested in section N(6). to delete the word "conformed" and change the words "Order of Protection" to "Protective Order."
- It was suggested in section Q(2)(b). that the words be changed from "Order of Protection" to "Protective Order."

**MOTION: Motion was made and seconded to approve and forward Rule 1 General Administration as amended. Motion passed unanimously. 19-0-0. CIDVC-06-011**

**B. RULE 2: FEES AND COSTS**

- It was proposed to delete statute A.R.S. § 13-3602(D) in section B1: *Fee Deferrals and Waivers* because it did not apply. Cannot defer or waive a fee that cannot be charged.
- It was suggested and agreed upon to delete the words “and Injunction Against Workplace Harassment” because it did not apply to section B2.
- It was recommended to add statute A.R.S. § 12-1810(N) to section C1: *Cost and Attorneys’ Fees*.

**MOTION: Motion was made and seconded to approve and forward Rule 2: Fees and Costs as amended. Motion passed unanimously. 19-0-0. CIDVC-06-012**

**C. RULE 4: FAMILY LAW CASES**

- There was a grammatical change to section A2: *Jurisdiction* a colon was added after the word “either.”

**MOTION: Motion was made and seconded to approve and forward Rule 4: Family Law Cases as amended. Motion passed unanimously. 19-0-0. CIDVC-06-013**

**D. RULE 5: RULE OF EVIDENCE AND DICLOSURE FOR PROTECTIVE ORDER HEARINGS**

- Rule 5 was deferred to the DV Rules Committee to revisit again to consider how the Family Law Rules addressed the rules of evidence and how this committee comments on the rules of evidence to decide what is admissible.

**E. RULE 6: RULE OF PROCEDURE FOR ISSUING PROTECTIVE ORDERS**

- It was discussed whether to change or leave the word “immediately” in section C under subsection d1b. Committee members decide to defer the discussion to the DV Rules Committee.
- It was suggested and agreed in section E to add a subheading to 4(a). “Findings Required” and to E(4)(d). “Protected Persons” to be in conjunction with the other subheadings.
- There was a grammatical change under the Committee Comments Rule 6(D) to add the word “an” after the word “issue” and delete the “s” off the word “Protection.”

**MOTION: Motion was made and seconded to approve and forward Rule 6: Rules of Procedure For Issuing Protective Orders as amended. Motion passed unanimously. 19-0-0. CIDVC-06-014**

## F. RULE 7: MOTION TO DISMISS, QUASH OR MODIFY

- It was suggested and agreed to add and change language to section A(3) deleting the word “without” and changing it to “and” and deleting the word “being” and changing it to “is not.”
- It was proposed and agreed to add statutes A.R.S. §§ 12-1809(J) and 12-1810(I) at the end of section B(4). These statutes refer to injunctions against harassment and the workplace harassment.
- It was proposed and agreed to add statutes A.R.S. §§ 12-1809(K) and 12-1810(J) to section B(5). These statutes refer to filing of an affidavit.

**MOTION: Motion was made and seconded to approve and forward Rule 7: Motion To Dismiss, Quash Or Modify as amended. Motion passed unanimously. 19-0-0. CIDVC-06-015**

## G. RULE 8: CONTESTED HEARING PROCEDURES

- It was proposed and agreed upon to delete section A(1)(c).
- It was suggested to change “*ex parte* and full hearings” to “all hearings” in section E.

**MOTION: Motion was made and seconded to approve and forward Rule 8: Contested Hearing Procedures as amended. Motion passed unanimously. 19-0-0. CIDVC-06-016**

## H. RULE 9: FORMS

- It was suggested to change words “are required” to “will” in section B: *Courts Required to Provide all Forms Without Charge*. It was also suggested to delete the second sentence within the paragraph.
- In the Committee Comments section Rule 9(D) it was suggested and agreed upon to include “(C)” before the “(D).”

**MOTION: Motion was made and seconded to approve and forward Rule 9: Forms as amended. Motion passed unanimously. 19-0-0. CIDVC-06-017**

## VII. CALL TO THE PUBLIC

Mike Jenkosky, a member of the public, came to the Committee to discuss the effects of his past legal matters regarding Protective Orders. He had an Order of Protection filed against him alleging crimes against his wife. He had a hearing and his collections of guns were taken away. It was his understanding, after the hearing he would be able to claim his gun collection. He has since found out that his ex-wife has continuously filed Orders of Protection against him which does not allow him to claim his extensive gun collection. He would like the Committee to address the issue of the need to represent evidence to support an allegation of domestic violence, and the importance of information being presented by both parties before issuing an order of protection.

## VIII. WORKGROUP UPDATES

- Judge Moran, Chair of the DV Education Workgroup, asked the Committee for suggestions for a training program for judges at the annual Judicial Conference

next year. He also reported the workgroup is in the process of solidifying a date for the High School Domestic Violence Education Program.

## **IX. ADJOURNMENT**

Judge William O'Neil, Chair, adjourned the meeting at 2:05 p.m.

## **NEXT MEETING**

Wednesday, November 1, 2006

10:00 am to 2:00 pm

State Courts Building, Conference Room 119 A/B