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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND
RULES 25(b) and 26(b) OF THE
PROPOSED ARIZONA RULES OF
PROTECTIVE ORDER PROCEDURE

Supreme Court No. R-15-_____

**Petition to Amend Rules 25(b)
and 26(c) of the Proposed
Arizona Rules of Protective
Order Procedure**

**Request for Expedited decision
before January 1, 2016**

Pursuant to Rule 28, Rules of the Supreme Court, Mike Palmer petitions the Court to amend Rules 25(b) and 26(b) before January 1, 2016 to comport with the 14th Amendment due process guarantee recently clarified by this Court in Rule 23(b).

I. Background and Purpose for amending the Rules

In January of this year, the CIDVC proposed a massive revision (amendment) to the Arizona Rules of Protective Order Procedure. In late August, this Court approved the amendment. (I apologize to the Court for being late to the party.)

Among the substantive changes, the CIDVC amended proposed Rule 23,

which governs petitions for (criminal) Domestic Violence Orders Of Protection. The CIDVC asked for this to "clarify[] language regarding the scope of the petition . . . as a result of *Savord v. Morton*, 235 Ariz. 256, 330 P.3d 1013 (Ariz. Ct. App. 1 2014). In *Savord*, the Court of Appeals directs courts to either limit the scope of the hearing to the allegations of the petition or allow the plaintiff to amend the petition and reschedule the hearing to give the defendant the opportunity to prepare a defense against new allegations."

Consequently, new Rule 23(b), subtitled *Contents of Petition* says "In the petition, the plaintiff must: (1) allege each specific act of domestic violence **that will be relied on at hearing.**" (Emphasis mine.)

That's fine as far as it goes. But the CIDVC did not go far enough.

The CIDVC should have similarly amended the Rules governing petitions for (civil) Injunctions Against Harassment and Injunctions Against Workplace Harassment to similarly limit the scope of these hearings to the allegations in their respective petitions. The 14th Amendment right to due process (per *Savord*) and a fair hearing (per me) is no less a right in these matters. And the "collateral legal and reputational consequences that last beyond an order's expiration" (quoting *Savord* at ¶11) are just as great in civil injunctions as they are with DV protective orders. (Especially as practiced under the Court's Rules of Procedure.)

Since plaintiffs often sneak in new allegations at hearings for civil protective orders just as they do in criminal DV hearings, and since defendants

have the same due process right not to be blindsided (to prepare a defense for these new allegations), the same clarification should be codified in the Rules to protect defendants in civil injunctions.

II. Proposed Text

Therefore, I propose that Rule 25(b) be amended to insert a sentence immediately after the bold text **Contents of Petition** saying "In the petition, the plaintiff must allege each specific act harassment that will be relied on at hearing."

Similarly, I propose that Rule 26(b) be amended to insert a sentence immediately after the bold text **Contents of Petition** saying "In the petition, the plaintiff must allege specific acts harassment that will be relied on at hearing."

DATED this 28th day of September, 2015

By /s/ Mike Palmer