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THE SUPREME COURT OF ARIZONA

APRIL 17, 2016

Justice
Ann A. Scott
Timmer

Vice Chief
Justice
John Pelander

Chief
Justice
Scott Bales

Justice
Robert M.
Brutinel

Justice
Clint
Bolick

MOTION FOR EXPEDITED

ADMINISTRATIVE ORDER RE RULE 74

**ARIZONA RULES FAMILY LAW
PROCEDURE**

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Supreme Court No. R-16-0016

**MOTION TO VACATE ALL COURT ORDERS ASSIGNING A
PARENTING COORDINATOR IN 2015 IMMEDIATELY.**

**AMERICAN ARIZONA FAMILY CITIZENS REQUEST EQUAL
PROTECTION OF THE LAW REGARDING ARIZONA RULES OF
FAMILY LAW AND PROCEDURE, RULE 74.**

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, Petitioner and Arizona citizens, who were assigned a Parenting Coordinator in Family Court during the year 2015, respectfully request this Honorable Court to provide Under the Constitution of the United States, equal rights and equal protection of the law regarding the Provisions of the new version of Arizona Rules of Family Law and

Procedure Rule 74 effective January 1, 2016, with compelling circumstances and good cause shown, render EXPEDITED ORDER TO IMMEDIATELY VACATE ALL 2015 COURT ORDERS ASSIGNING A PARENTING COORDINATOR.

The new version of Rule 74 of Arizona Rules of Family Law and Procedure states that both parties must agree or stipulate to the assignment of a Parenting Coordinator, in writing or in open court, otherwise a parenting Coordinator will not be assigned by the courts.

The new ARFLP Rule 74 effective January 1, 2016 also provides that those who were assigned a Parenting Coordinator in 2015 must finish the sentence of the assignment:

“All parenting coordinator appointments made prior to January 1, 2016, continue to be governed by the prior version of Rule 74 for the remaining term of that appointment.”

For many, the burden of the cost of the parenting coordinator only allows for one party, the one who has enough money to continue to have an attorney and to pay for the parenting coordinator and his attorney, to participate or provide requests on issues raised by that parent with the money to do so. This issue does not afford both parties due process.

Whatever procedures the court adopts to organize and manage busy calendars, however, it can never lose sight of its fundamental obligation to afford due process to all parties. In some cases, this requirement will trump uniform case-management schemes. (VOLK v. HON. BRAME/ALVRUS Opinion of the Court)

“In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” Goldberg, 397 U.S. at 269; see also Obersteiner v. Indus. Comm’n, 161 Ariz. 547, 549, 779 P.2d 1286, 1288 (App. 1989) (“The right to cross-examination is fundamental and attaches when . . . any testimonial or documentary evidence [is received].”).

By limiting a party's opportunity to confront the other's evidence to the parenting coordinator due to inability to pay to participate, with the court's knowledge of bankruptcy, the court denies the party their due process rights. The only due process possible is to object to the Parenting Coordinator's recommendation and request a court hearing to attempt to receive it.

This disparity of who the new version of Rule 74 effective January 1, 2016, separates who it applies to and does not apply to, which is unlawful and in conflict with the United States Constitution and "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws"

The United States Constitution provides in Amendment 14 the following:

"It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the laws."

Rendering an immediate Administrative Order to VACATE 2015 Court Orders assigning a Parenting Coordinator would no longer deprive *some* citizens (those appointed a Parenting Coordinator in 2015) of the right to say "no thank you" to such a third party. Accordingly:

"Civil Rights Act of 1871, 42 U.S.C. § 1983:

42 U.S. Code § 1983 - Civil action for deprivation of rights

Current through Pub. L. [114-38](#). (See [Public Laws for the current Congress](#).)

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or

causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

The Arizona Supreme Court and our Chief Justice Scott Bales, recognized that significant issues are present regarding the mandate of Court Ordered Parenting Coordinators leading to change the Arizona Rule of Family Law and Procedure Rule 74. Part of this change included in Rule 74 states BOTH parties must agree in writing or on the court record to the assignment of a Parenting Coordinator. The Courts can no longer appoint such person.

It is written by our Chief Justice, Arizona judiciary in their *Advancing Justice Together* booklet:

“To earn the support of our communities, we who work in the judiciary must continue to exemplify our deep commitment to fairness, integrity, efficiency, and equal justice under law. I look forward to our work in advancing justice together. —Scott Bales, Chief Justice”

<http://www.azcourts.gov/portals/0/AdvancingJusticeTogetherSA.pdf>

WHEREFORE, Petitioner an American Arizona Family Citizen request and pray this Honorable Arizona Supreme Court Order IMMEDIATE relief, with compelling circumstances and good cause shown, render an EXPEDITED ORDER TO IMMEDIATELY VACATE ALL 2015 COURT ORDERS of which ASSIGNED A PARENTING COORDINATOR.

If the parties would like to stipulate in writing to a parenting coordinator, they may follow the new Rule 74 directions.

Respectfully submitted,

/s/ Patricia Cummins

Proposed form of Order:

The Supreme Court of Arizona Orders on this date, April_____, 2016, all

Court Orders Appointing a Parenting Coordinator in the year 2015 are
VACATED.

If the parties wish to use the services of a parenting coordinator under the new
Arizona Rules of Family Law Procedure Rule 74, they may submit the
agreement of the same in writing to their County Superior Family Court.

Scott Bales/ Chief Justice
The Supreme Court of Arizona

