



Protective Orders

September 6, 2023

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Judicial Education Officer
Maricopa County Justice Courts



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Outline

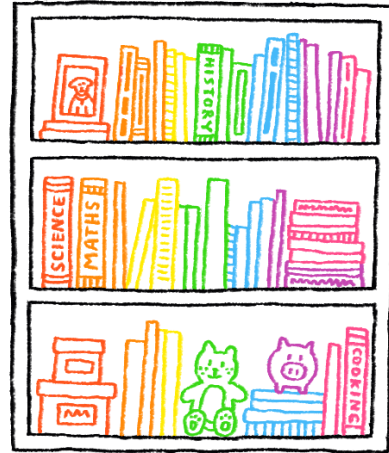
- Background
- Emergency Orders of Protection
- Lifetime No-Contact Injunctions
- Protective Orders in General
- Orders of Protection
- Injunctions Against Harassment
- Injunctions Against Workplace Harassment
- Firearms/Firearm Transfer Programs



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Background

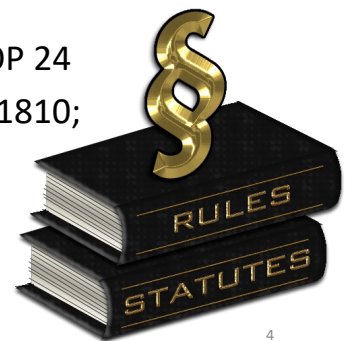


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Five Types of Protective Orders

- Emergency Order of Protection: A.R.S. § 13-3624, ARPOP 24
- Lifetime No-Contact Injunction: A.R.S. § 13-719, ARPOP 43 (New)
- Order of Protection: A.R.S. § 13-3602, ARPOP 23
- Injunction Against Harassment: A.R.S. § 12-1809; ARPOP 24
- Injunction Against Workplace Harassment: A.R.S. § 12-1810; AROP 26



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Emergency Orders of Protection

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Emergency Orders of Protection

- ARS § 13-3624, ARPOP 24
- In a county having a population of 150,000 or more, the presiding judge of the superior court in that county must make available on a rotating basis a judge, a justice of the peace, a magistrate, or a commissioner to issue an Emergency Order of Protection by telephone during hours that the courts are closed.
- In a county having a population of less than 150,000, any judge, justice of the peace, magistrate, or commissioner may issue an Emergency Order of Protection by telephone during hours that the courts are closed.

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Emergency Orders of Protection

- A judicial officer may issue an order in writing or orally
- Order can include exclusive use and firearm prohibition
- Expires seven calendar days after issuance, unless otherwise continued by the court. (Effective Sept 24, 2022)
- (Had previously expired at the the close of the next day of judicial business following the day of issue or seventy-two hours after issuance, whichever is longer, unless otherwise continued by the court.)

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Lifetime No-Contact
Injunctions (New)

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Lifetime No-Contact Injunction

- A.R.S. § 13-719, ARPOP 43 (New, effective 9-24-22)
- On the request of the victim or the prosecutor at sentencing, the court is required to issue an injunction that prohibits the defendant from contacting the victim if the defendant is convicted of a dangerous offense, a serious offense or violent or aggravated felony, or a felony offense that is a sexual offense or an offense of sexual exploitation of children.
- The injunction is effective immediately and is valid for the defendant's natural lifetime unless the victim dies, the conviction is dismissed or overturned, or the victim submits a written request to the court for an early expiration.

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Lifetime No-Contact Injunction

- A victim is authorized to submit a petition to the court (where the defendant was convicted) requesting an injunction against a defendant who was sentenced for one of the specified offenses before the effective date.
- Eliminated the “extra” definition of harassment (for injunctions against harassment) that was added in 2021 (for victims of defendants convicted of committing crimes)!

~~(c) Any contact if the person is the victim of a crime that was committed by the defendant. For the purposes of this subdivision, "crime" means a conviction for an offense, whether completed or preparatory, that is a dangerous offense as defined in section 13-105, a serious offense or violent or aggravated felony as defined in section 13-706 or any offense in title 13, chapter 14 or 35.1.~~

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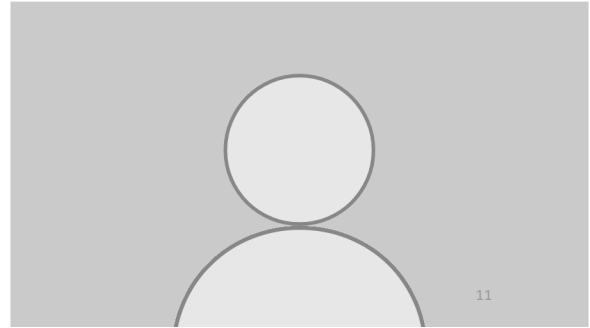
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F. For the purposes of this section:

1. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state that if committed in this state would constitute one of the following offenses:

- (a) First degree murder.
- (b) Second degree murder.
- (c) Manslaughter.
- (d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
- (e) Sexual assault.
- (f) Any dangerous crime against children.
- (g) Arson of an occupied structure.
- (h) Armed robbery.
- (i) Burglary in the first degree.
- (j) Kidnapping.
- (k) Sexual conduct with a minor under fifteen years of age.
- (l) Child sex trafficking.

ARS § 13-706



New for 2023

- SB 1582, effective **10/29/23**
- Set asides and sealing of convictions does not affect eligibility for lifetime injunctions

generally

Protective Orders in General

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How the Orders Are Similar

OPs

- Issued on an ex parte basis
- Reasonable cause standard at issuance
- Right to have a hearing, where standard is preponderance
- Enjoins the conduct of the defendant
- Violations may result in criminal consequences

Injunctions

- Issued on an ex parte basis
- Reasonable cause standard at issuance
- Right to have a hearing, where standard is preponderance
- Enjoins the conduct of the defendant
- Violations may result in criminal consequences

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OPs

- Authority for OOPs found in the Arizona Rules of Protective Order Procedure and statutes
- Acts within 1 year unless judge finds good cause to go beyond
- May prohibit possession of firearms
- Hearing within 10 days upon request by defendant, unless exclusive use (5 days)
- No filing fee

Injunctions

- Authority for IHs found in the Arizona Rules of Protective Order Procedure and statutes
- Series of acts, **most recent** within one year (1 for Workplace Inj)
- May prohibit possession of firearms
- Hearing within 10 days upon request by defendant
- No filing fee

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How the Orders Are Different

OPs

- Require a domestic, familial or intimate partner relationship
- Requires an act of domestic violence or threat of domestic violence under 13-3601
- Good for **2 years** from the date of original service
- May not refer to ADR

Injunctions

- Do not require domestic, familial or intimate partner relationship
- Requires a series of threatening or harassing acts (except for sexual violence or Workplace Injunctions)
- Good for 1 year from the date of original service
- May refer to ADR

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ID Not Required for Ex Parte

Plaintiff with no identification will not be turned away because he/she does not have a valid, government issued identification card.

*The Judicial Officer will ascertain identification through sworn testimony

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Rule 5: Parties

- 3rd Parties:
- If the person in need of protection is either temporarily or permanently unable to request an order, a third party may request a protective order on the person's behalf. After the request, the judicial officer must determine whether the third party is an appropriate requesting party.

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Rule 5: Parties

- Minors
- If the person in need of protection is a minor, then the parent, legal guardian, or person who has statutorily defined legal custody of the minor must file the petition unless the court determines otherwise. The petition must name the parent, guardian, or custodian as the plaintiff and the minor as a specifically designated person.

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Rule 5: Parties

- Child as a Protected Person:
- A judicial officer cannot include a defendant's child in a protective order unless there is reasonable cause to believe:
 - (A) physical harm may result or has resulted to the child, or
 - (B) the alleged acts of domestic violence involved the child.

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Rule 5: Parties

- Child and Defendant with No Legal Relationship:
- If the defendant and the child have no legal relationship, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.
- Minor as Defendant:
- Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age.

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Children on Petitions (Relatively New)

- Rule 35(f), **added January 1, 2022**
- **(f) Defendant Is a Non-Parent of Child.** When a harassment injunction involves a child who is not the defendant's legal or biological child, the limited jurisdiction court may issue an ex parte protective order and conduct any contested hearings. To the extent the order affects the parenting rights of the person who is not a party to the harassment injunction action, the remedy for such a person is under Rule 91.6 of the Rules of Family Law Procedure.
- Family judge has several options, including transferring the order to the Family Court or modify the order.

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Rule 34 Family Court

- A limited jurisdiction court cannot issue a protective order if plaintiff's petition or other evidence reveal that an action for maternity, paternity, annulment, legal decision-making and parenting time, dissolution of marriage, or legal separation is **pending** in an **Arizona** superior court.
- Must promptly transfer if one issued

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Rule 35 Parenting Time

- Provisions for Parenting Time and Child Exchanges:
- A limited jurisdiction court that issues an order prohibiting contact with the plaintiff **cannot** include exceptions that allow the defendant to come near or contact the plaintiff in person for legal decision-making or parenting time with a child...
- ... A limited jurisdiction court **may** allow contact by mail or e-mail to arrange parenting time and may provide for child exchanges under circumstances not involving contact with the plaintiff in person.

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Rules 6 and 17: Court Availability; Priority

- A judicial officer must allow a victim advocate, if identified as such, to accompany the plaintiff during the ex parte hearing
- The presence of children does not constitute grounds to deny a plaintiff access to the court for the purposes of requesting an ex parte protective order.
- A judicial officer must expeditiously schedule an ex parte hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted.

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Rule 7: Public Access

- The court must not make publicly available any information regarding the filing for, contents of a petition for, or issuance of a protective order until proof of service of the protective order has been filed with the court. The court may share information about the protective order with the plaintiff, prosecutors, or law enforcement.

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Rule 10: No Limits

- No Limit on Requests
- No Limit on Orders Granted
- A plaintiff may file a petition for another protective order if the plaintiff believes protection is still needed pending expiration of the current protective order.

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Rule 18: Record

- A judicial officer must cause all contested protective order hearings and, where practicable, all ex parte hearings, to be recorded electronically or by a court reporter.
- An appeal from a contested hearing that was not electronically recorded or otherwise reported results automatically in a new hearing in the original trial court.

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Rule 19: Prior Records

- A judicial officer must not consider the number of times a protective order has been dismissed as a basis for denying a request for protective relief.
- Each time a plaintiff petitions for protective relief, the judicial officer must make an independent determination whether there is reasonable cause to issue a protective order.

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Rule 20: Protected Address ***Relatively New***

- A judicial officer must verify that plaintiff's residential address and contact information **do not appear** on the petition and the protective order and **must avoid stating the address on the record.**

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Rule 21: Other Existing Orders

- Must ask plaintiff and examine all available records
- Set pre-issuance hearing unless imminent danger

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Rule 22: No Mutual Orders

- No mutual protective orders
- Petitions of opposing parties can be consolidated for hearing
- The Court may not issue a protective Order against Plaintiff based on Plaintiff's own petition
- Do not order plaintiff to do anything

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Rule 31 Service

- A protective order can be served only by a person authorized by Rule 4(d), Arizona Rules of Civil Procedure
- Can be served in court or at the scene
- Attorney CANNOT accept service
- Expires if not served w/i 1 year

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Rule 31 Service *Relatively New*

- Service of process for Orders of Protection or Injunctions with dating or sexual violence issued by Justice Court will be the responsibility of the County Sheriff's Office or Constables
- The Supreme Court, through AOC, will electronically transmit the Order of Protection to law enforcement for service
- All court can do is delay up to 72 hours
- So, inquire at beginning if plaintiff is ready to have it served or if they want to apply later

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Serving Order of Protection--Delay

- The petitioning party may request, or the issuing judge (in his or her discretion), may decide to delay service for up to 72 hours. The issuing court must make a finding as to why the delay is being ordered. In that event, the Order of Protection will be held by the Central Repository from initiating service of process for the delay time ordered by the Court

The screenshot shows a web interface with several buttons and a form field. On the left, there is a blue link labeled "Return To Top". In the center, there are two buttons: "Edit Petition" and "Deny/Quash Order". Below these are two more buttons: "Reprint Petition" and "Print Declaration of Service". On the right side, there is a form field labeled "Delay of Service Needed? (up to 72 hrs)" with a yellow input box. Below this field is a button labeled "Grant and Review Order of Protection".

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Service ARCP 4.1(e-g)

- Minors under 16—serve minor AND parent or guardian
- If minor or adjudicated incompetent has guardian or conservator, serve person and latter

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Rule 38 Contested Hearings *Relatively New*

- Rule 38(b)(1) If exclusive use of a residence is awarded to the plaintiff, the court, on written request of a party, may hold additional hearings at any time if there is a change in circumstances related to the primary residence. *See* A.R.S. § 13-3602(L).
- Rule 38(a) Defendant entitled to only 1 hearing which must be requested in writing (so pre-issuance hearing does not qualify) and can be waived if defendant FTA at requested hearing.
- Rule 38(e)
 1. Plain present, Def FTA and had actual notice: Leave in place
 2. Plain FTA and had actual notice, Def present: Dismiss
 3. Both FTA and had actual notice: Vacate hearing and Leave in place

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Amended Petitions—Relatively New

- Rule 38(d) added, effective **January 1, 2022**
- Adds **(d) Amended Petition**. At a contested hearing, if a plaintiff seeks to testify or present evidence about relevant allegations that were not included in the petition, the court must:
 - (1) allow the plaintiff to amend the petition in writing on a form provided by the court, a copy of which the court must immediately provide to the defendant; and

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Amended Petitions, continued

- (2) offer the defendant each of the following options:
- (A) a continuance of the hearing, within the timeframes specified by Rule 38(b), to allow the defendant the opportunity to prepare for the additional allegations; or
- (B) a brief recess to allow the defendant the opportunity to review the amended petition and prepare for the additional allegations; or
- (C) an explanation of the options above and an opportunity to waive them. If the defendant waives both the opportunity for a continuance or a brief recess, then the court must proceed with the contested hearing on the amended petition that includes the additional allegations.

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Form

All Courts in Arizona/NCIC#/DPS#	Address	City, AZ	Zip Code	Telephone No.
Plaintiff _____	Case No. _____	SUPPLEMENT TO PETITION (Rule 38(d), ARPOP)		
v.				
Defendant _____				

Rule 38(d), Rules of Protective Order Procedure, allows a plaintiff to file an amended petition at a contested hearing. If you file an amended petition and add more allegations here, the judge must allow the defendant an opportunity to ask for the hearing to be continued to another day or grant a brief recess so the defendant can review and prepare for these additional allegations. The defendant may also choose to waive a continuance or a recess, and the contested hearing will proceed as scheduled.

Tell the judge additional information that you did not include on your original petition. Any events you add must have occurred before you applied for the protective order. Print both the dates and a brief description of what happened.

Approx. Date	(Do not write on back or in the margin. Attach additional paper if necessary.)
required	_____
required	_____
required	_____ 40

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Directive
2021-19

Rule 36 Relevant Evidence

- Scope of hearing limited to allegations of the petition (but—can now amend the petition).
- Relevant evidence is admissible provided, however, that court must exclude evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, undue delay, wasting time, needlessly presenting cumulative evidence, or lack of reliability.

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Rule 40 Motion to Modify

- Only plaintiff can request
- Prior to contested hearing: can be done with interview of plaintiff
- If a contested hearing has been requested or has occurred, the motion to modify must be set for hearing with notice to the defendant

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Rule 41 Motion to Dismiss

- Plaintiff only
- Must check ID
- Ensure no coercion
- If defendant present, must interview separately
- Should be dismissed and invited to re-file if necessary

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Rule 39 Costs and Attorney Fees

- Can award costs and attorney fees
- Should you?

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Rule 42 Appeals

- Appealed to Superior Court
- No stay!
- Based upon transcript of hearing
- An ex parte denial may be appealed, but better to encourage plaintiff to return if additional incidents or proof

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Orders of Protection

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Orders of Protection Now 2 Years

- An order of protection now valid for 2 years if served on or after **9-24-22**.
- (Injunctions remain one year.)



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Rule 23: Orders of Protection

- Must hold ex parte hearing
- **Each element to be relied on at hearing must be specifically alleged (but petition may be amended)**
- Must find reasonable cause to believe that the defendant may commit an act of domestic violence or has committed an act of domestic violence within the past year or within a longer period if the court finds good cause exists to consider a longer period.

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Rule 23(f)(2): DV Relationship

- Spouse or former spouse
- Children in common with defendant
- Parent
- Grandparent
- Child
- Grandchild
- Brother or sister
- Romantic or sexual relationship with Defendant (now or in past)
- Roommates



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Acts of Domestic Violence A.R.S. § 13-3601

- | | | | |
|--|-----------------------------------|-------------------------------|---------------------------------|
| • §13-705 | Dangerous Crimes Against Children | • § 13-1602 | Criminal damage |
| • 13-1102, 1103, 1104, 1105 | Neg.Homicide/ Manslaughter, | • § 13-2810 | Disobeying a court order |
| 2 nd or 1 st Degree Murder | | • § 13-2904 | Disorderly Conduct |
| • § 13-1201 | Endangerment | • § 13-2910 (A)(8) and (A)(9) | Cruelty to Animals |
| • § 13-1202 | Threatening or intimidating | • § 13-2915(A) | Prevention of Use of Telephone |
| • § 13-1203 | Assault | in an Emergency | |
| • § 13-1204 | Aggravated assault | • § 13-2916 | Use of Telephone to harass |
| • § 13-1302 | Custodial interference | • § 13-2921 | Harassment & 13-2901.01 |
| • § 13-1303 | Unlawful imprisonment | Aggravated Harassment | |
| • § 13-1304 | Kidnapping | • § 13-2923 | Stalking |
| • § 13-1406 | Sexual Assault | • § 13-3019 | Surreptitious videotaping or |
| • § 13-1502 | Criminal trespass, third degree | filming | |
| • § 13-1503 | Criminal trespass, second degree | • § 13-3601.02 | Aggravated Domestic Violence |
| • § 13-1504 | Criminal trespass, first degree | • § 13-3623 | Child or vulnerable adult abuse |

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Crime of Harassment (for DV Act)

- 13-2921 (effective 9/24/22)
- The person “knowingly and **repeatedly** commits an act **or** acts that harass another person or the person knowingly commits any **one** of the following acts in a manner that harasses:”
 - 1 Contacts another person
 - 2 Follows a person in public after being asked to desist
 - 3 Surveils or causes another person to surveil
 - 4 Makes a false report to law enforcement or credit or social service agency
 - 5 Interferes with delivery of utility
- Aggravated Harassment (felony) includes violation of any OP, Injunction, **Emergency OP, or violating a Condition of Release by contacting a harassment victim.**

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Crime of Harassment (for DV Act)

- Note: only 1 false report to law enforcement!
- Emergency Petition R-22-0030 (**Approved Aug 23**)
- Changes definition of “harassment” in Rule 3(e) when applicable to OP or Emergency OP (only): conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, humiliated, or ~~harassed~~ mentally distressed, and the conduct in fact seriously alarms, annoys, humiliates or ~~harasses~~ mentally distresses the person.
- (Did NOT change the definition of harassment for Injunctions)

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Rule 23g Orders of Protection

- Additional Review for Limited Jurisdiction Courts.
- A court must ask the plaintiff whether a family law action is pending in the superior court and determine whether the court has jurisdiction pursuant to Rule 34.



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Rule 23: Orders of Protection—Exclusive Use

- May grant the plaintiff exclusive use of the parties' residence if there is reasonable cause to believe that physical harm otherwise may result.
- A plaintiff who is not the owner of the residence may be granted exclusive use for a limited time.
- The defendant may be permitted to return one time, accompanied by law enforcement, to pick up personal belongings.
- At a contested hearing, a judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use.

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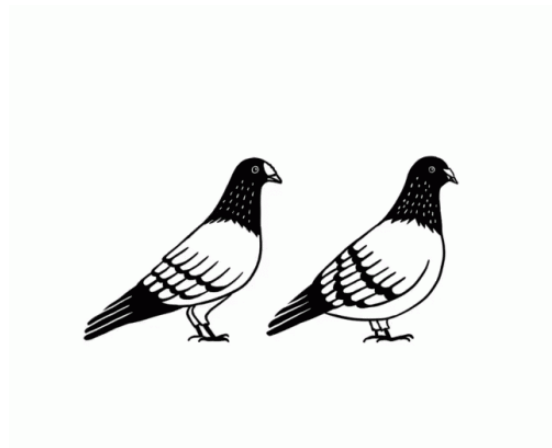
Rule 23(h)(2) OP-Exclusive Use *Relatively New*

- If the plaintiff moves out of the residence while the order is in effect, the plaintiff must file a written notice with the court within five days after moving. Upon receipt, the court must provide a copy of the notice to the defendant and advise of the right to request a hearing pursuant to A.R.S. § 13-3602(L).



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Injunctions Against Harassment

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Rule 25: Injunctions Against Harassment

- Must allege specific series (at least 2*) events, with dates, to be relied on at hearing
- **Only 1 must be within previous year**
- *12-1809(S)(1)(b) added
- Instead of a series of acts, 1 act of sexual violence will qualify
- Those acts identified at ARS § 23-371

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Injunctions Against Harassment

A.R.S. § 12-1809(T): “Harassment:

--a series of acts over any period of time

--directed at a specific person

--would cause a reasonable person to be seriously alarmed, annoyed, or harassed,

and the conduct in fact seriously alarms, annoys, or harasses the person

and serves no legitimate purpose.

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12-1809: Surprise!

- Harassment Includes unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity and engaging in a secondary boycott as defined in section 23-1321 and defamation in violation of section 23-1325.

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Injunctions: Set to Pre-Issuance Hgs Unless...

- 12-1809:
- E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, **to determine whether the injunction requested should issue without a further hearing.** Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that **good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given,** the court shall issue an injunction as provided in subsection F of this section. **If the court denies the requested relief, it may schedule a further hearing within ten days with reasonable notice to the defendant.** For the purposes of determining the one-year period, any time that the defendant has been incarcerated or out of this state shall not be counted.
 - BP: Set to pre-issuance hearing unless 'emergent circumstances'

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Injunctions Against Workplace Harassment

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Rule 4d: IAWH

- An Injunction Against Workplace Harassment, governed by A.R.S. § 12-1810, authorizes an employer to seek a court order preventing a person from being on the employer's premises
- and from committing acts of harassment against the employer, the workplace, employees, or any other person who is on the employer's property or at the place of business or who is performing official work duties.

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R 26: Injunctions Against Workplace Harassment

- May allege only 1 specific event, with date, to be relied on at hearing
- To grant ex parte, must find that good cause exists to believe great or irreparable harm would result to plaintiff if IAH is not granted before defendant can be heard in opposition and specific facts attesting to plaintiff's efforts to give notice to defendant or reasons supporting plaintiff's claim that notice should not be given

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Firearms/
Firearm Transfer
Programs

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Protective Orders: Brady (Federal)

- Only ordered after a hearing between intimate partners at which the defendant had actual notice and an opportunity to participate
- Intimate partners: Married to each other now or in the past
- Parents of a child in common
- Cohabit (intimately) with each other now or in the past


WARNINGS TO DEFENDANT: This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, or any U.S. territory, and may be enforced by Tribal Lands (18 U.S.C. § 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. § 2262). Because of this order, it may be unlawful for you to possess or purchase a firearm or ammunition pursuant to federal law under 18 U.S.C. § 922(g)(8) or state, tribal, territorial, or local law. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney. **Only the court, in writing, can change this order.**

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Protective Orders: Not Brady

- Arizona Firearms Law:
- Under ARS 13-3602(G)(4), if the court finds that Defendant poses a credible threat to the physical safety of Plaintiff or Protected Persons, the Defendant shall not possess, receive, or purchase firearms and shall surrender same to (local law enforcement) within 24 hours.

 **ARIZONA FIREARMS LAW.** Under A.R.S. § 13-3602(G)(4), the court finds that Defendant poses a credible threat to the physical safety of Plaintiff or Protected Persons. Therefore, Defendant shall not possess, receive, or purchase firearms and shall surrender same within 24 hours of service to: _____

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Other (Arizona) Prohibitions on Firearms

- Release Conditions: A condition of release can order a defendant not to possess firearms.
- Prohibition can last for pendency of criminal case.
- DV Arrest: ARS § 13-3601(C)-(F)
- Law enforcement can seize a firearm at the scene and hold it for up to six months.
- Defendant has a right to a hearing.
- DV Conviction: Anyone placed on probation for domestic violence is a prohibited possessor for term of probation
- ARS §§ 13-3101(7)(d), 13-3102(A)(4)

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Several cities, in conjunction with law enforcement and prosecutors, have instituted **Firearm Transfer Programs.**

(Phoenix
Scottsdale
Surprise
Tempe)

TEMPE MUNICIPAL COURT 140 EAST FIFTH ST. SUITE 200 TEMPE, AZ 85281		
SAM SUNG Plaintiff v. TOM AUTO Defendant	Case No. 22-020703-4	ORDER and DECLARATION OF FIREARM(S) TRANSFER Issue Date 12/1/2022
IT IS ORDERED that the Defendant transfer any firearm(s) the Defendant owns or possesses to the Tempe Police Department, immediately, or, within 24 hours of service of a protective order and/or this judicial order. Defendant shall fully and legibly complete, this Declaration of Firearm(s) Transfer.		
Kevin Kane <small>Judicial Officer</small>		12/1/2022 <small>Date</small>
<input type="checkbox"/> FIREARM(S) TRANSFERRED		
On _____ at _____ AM / PM, and in compliance with a Judicial Order, I transferred any firearm(s) that I own or possess to the Tempe Police Department.		
Law Enforcement: I _____ received and verified the above _____ firearm(s) on _____ <small>Officer Name - please print</small> at _____ AM / PM Location _____ <small>Incident Number</small> _____ <small>Officer Signature</small> _____ <small>Serial Number</small> _____		
<input type="checkbox"/> NO FIREARMS TRANSFERRED		
I have not transferred any firearms pursuant to a judicial order because I do not own or possess any firearms.		
CERTIFICATION		
I certify, under penalty of perjury and/or other related offense(s) under the law of the State of Arizona, that all the information I have provided in this document is true and correct.		
_____ <small>Date</small>	_____ <small>Plaintiff Name</small>	_____ <small>Defendant Signature</small>
WARNING Defendant is required to file the original Declaration of Firearm(s) Transfer with the Tempe Municipal Court within two business days of receiving the judicial order. Defendant must file the Declaration of Firearm(s) Transfer either 1) in person at the Court, 140 E 5th St., Tempe AZ 85281 or 2) by email to Court-criminal@tempe.gov YOUR FAILURE TO COMPLY WITH ALL THE TERMS CONTAINED IN THE JUDICIAL ORDER COULD RESULT IN YOU BEING CRIMINALLY CHARGED WITH INTERFERING WITH JUDICIAL PROCEEDINGS, A.R.S. § 13-2810(A)(2), CONTEMPT A.R.S. § 12-864, OR ANY OTHER APPLICABLE LAW.		

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Federal Prohibition: Lautenberg

- 18 USC § 922(g)(9)
It shall be unlawful for any person who has been convicted in any court of a misdemeanor crime of domestic violence to ... possess ... any firearm or ammunition.
- Lautenberg is in effect for Defendant's lifetime, unless:
 - The conviction has been expunged or set aside, or
 - The defendant has been pardoned or has had civil rights restored, unless the pardon, expungement, or restoration of civil rights expressly prohibits possession of firearms

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Crafting Orders

- Avoid distance restrictions
- NEVER order the plaintiff to do anything
- Do not schedule law enforcement standby

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At Ex Parte Hearing

- Questions to ask:
- Petition verified?
- Existing orders?
- Firearms access/concerns?
- Family Court action pending?
- Any other specific allegations you want to use at a contested hearing?
- State the specific acts relying upon for granting

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Safety Plans

- You can have plaintiffs fill out safety plans online here: www.myplanapp.org It is also available to download on Apple and Android as "myPlan."
- Could not find it in app store but it is online
- Icon looks like this:



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Questions?

Attachments

- 1 Benchcard
- 2 Sexual Violence
- 3 Form to Amend



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Appeals; BOP; Rules of Evidence or Alternatives

Protective Orders

(OPs served after 9-24-22 valid for 2 years!)

Type	Appeal	BOP	R Ev	Alternative (ARPOP)
Ex Parte OP		20(e)(1): Reasonable cause to believe Def may commit an act of DV or has committed an act of DV	No	
IAH		<p>With pre-issuance hearing: 25e1A</p> <p>To grant w/o pre-issuance hearing: 25e1A and 25e1B</p>	No	<p>25(e)(1)(A): reasonable evidence that Def committed a series of acts of harassment , at least 1 during previous year or at least one act of sexual violence against Plain</p> <p>25(e)(1)(B): good cause exists to believe that great or irreparable harm would result to Plain if injunction is not granted before Def can be heard in opposition and specific facts attesting to Plain's efforts to give notice to Def or reasons supporting Plain's claim that notice should not be given.</p>
Contested Protective Orders	14 days (not stayed)	<p>Preponderance</p> <p>38(f)(4): At the conclusion of the hearing, the judicial officer must state the basis for continuing, modifying, or revoking the protective order.</p>	?	36(a): The court must limit the scope of the hearing to the allegations of the petition. Relevant evidence is admissible provided, however, that the court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, undue delay, wasting time, needlessly presenting cumulative evidence, or lack of reliability.
New Allegations at Contested Hearing		Rule 38(d): Court must allow plaintiff to amend on form provided by court and		<p>Must allow defendant options:</p> <ol style="list-style-type: none"> 1 Continuance 2 Brief recess 3 Waive and proceed

Sexual violence

ARS § 23-371

J. "Sexual violence" means an offense prescribed in: (a) title 13, chapter 14, Arizona Revised Statutes, except for sections 13-1408 and 13-1422; or (b) sections 13-1304(A)(3), 13-1307, 13-3019, 13-3206, 13-3212, 13-3552, 13-3553, 13-3554, or 13-3560, Arizona Revised Statutes.

Title 13, Ch. 14, any offense, except § 13-1408 (adultery) or § 13-1422 (adult-oriented businesses)

13-1402	Indecent exposure
13-1403	Public sexual indecency
13-1404	Sexual abuse
13-1405	Sexual conduct with a minor
13-1406	Sexual assault
13-1409	Unlawful sexual conduct; adult probation employees; juvenile court employees
13-1410	Molestation of a child
13-1411	Bestiality
13-1412	Unlawful sexual conduct; peace officers
13-1417	Continuous sexual abuse of a child
13-1418	Unlawful sexual conduct; behavioral health professionals
13-1419	Unlawful sexual conduct; correctional facilities
13-1423	Violent sexual assault
13-1424	Voyeurism
13-1425	Unlawful disclosure of images depicting states of nudity or specific sexual activities
13-1428	Sexual extortion

13-1304(A)(3)—kidnapping with intent to inflict death, physical injury or a sexual offense on the victim

13-1307—sex trafficking

13-3019—surreptitious photographing, videotaping, filming or digitally recording or viewing

13-3206—taking a child for purpose of prostitution

13-3212—child sex trafficking

13-3552—commercial sexual exploitation of a minor

13-3553—sexual exploitation of a minor

13-3554—luring a minor for sexual exploitation

13-3560—aggravated luring a minor for sexual exploitation



Maricopa County Justice Courts, Arizona

Case Number: _____ NCIC #: _____ DPS #: _____

<input type="checkbox"/> Plaintiff <input type="checkbox"/> Plaintiff Employer (Work Injunction ONLY) Birth date: _____ <input type="checkbox"/> On behalf of minor/person in need of protection named _____ <input type="checkbox"/> Agent's Name (Work Injunction ONLY) _____	v.	Defendant _____ Address _____ City, State, Zip Code _____ Phone _____	This is <u>not</u> a court order
			SUPPLEMENT TO PETITION (Rule 38(d), ARPOP FOR: <input type="checkbox"/> Order of Protection <input type="checkbox"/> Injunction Against Harassment <input type="checkbox"/> Injunction Against Workplace Harassment

Rule 38(d), Rules of Protective Order Procedure, allows a plaintiff to file an amended petition at a contested hearing. If you file an amended petition and add more allegations here, the judge must allow the defendant an opportunity to ask for the hearing to be continued to another day or grant a brief recess so the defendant can review and prepare for these additional allegations. The defendant may also choose to waive a continuance or a recess, and the contested hearing will proceed as scheduled.

Tell the judge additional information that you did not include on your original petition. Any events you add must have occurred before you applied for the protective order. Print both the dates and a brief description of what happened.

Approx. Date Required	(Do not write on back or in the margin. Attach additional paper if necessary.)

Under penalty of perjury, I swear or affirm that the above statements are true to the best of my knowledge. I request an order or an order or an injunction granting relief as allowed by law.

Date: _____ Attest: _____
 Plaintiff _____ Date: _____ Judicial Officer/Clerk _____