MCBA
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MARICOPA COUNTY BAR ASSOCIATION

FAMILY LAW SECTION NEWSLETTER

In this edition:

EDITOR'S COMMENTS

The Board would like to thank Kellie Wells for her contributions in serving as the Chair of the Family Law Section of the Maricopa County Board Associations. Kellie time, efforts and hard work further elevated the Family Law Section. Thank you!

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Editors: Sylvina Cotto, Jennifer Kupiszewski, Annette Cox, Sara Swiren, Dori Eden and Kristi Morley

MARICOPA COUNTY BAR ASSOCIATION

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ANNOUNCEMENTS

MESSAGE FROM THE FAMILY LAW SECTION CHAIR (Jennika McKusick)

For those of you that do not know me, I am the Senior Associate Attorney with Jeffrey G. Pollitt, P.C. I have been practicing Family Law since 2012. However, I have worked exclusively in Family Law since December of 2005 when I began my "exciting" legal career as the receptionist for Jeff Pollitt and Robert Jensen. I can tell you all that, from my ten years working in the Family Law field, I still truly love the practice of family law.

I am excited and honored to serve as the 2016 Chair of the MCBA Family Law Section's Board of Directors. I have served on the Board since the end of 2012 and have sincerely enjoyed the time I have spent working with a group of peers that are so dedicated to the betterment of our practice and to the betterment of our relationship with the Maricopa County Bench.

I have so much hope for what the 2016 year can bring. I hope that we can use this year to increase the connectivity and camaraderie among our family law peers. I hope that we can use this year as an opportunity to network with other Sections of the MCBA. I hope that we can use this year to establish a spirit of amity with the Family Law Bench. Mostly, I hope that I don't mess this up somehow!

I encourage the members of the Family Law Section to use their membership, and to rely on their Board of Directors, to air their concerns, to suggest their ideas and to provide us with feedback—both good and bad—in order to assist the Board with providing you the services, CLEs and support that you need to make your practice better!

I am looking forward to serving you this year!

NEW RULES OF FAMILY LAW PROCEDURE

Three rules were amended effective January 1, 2016. For the text of each new rule visit: **http://www.azcourts.gov/rules/Recent-Amendments/More-Rules/Arizona-Rules-of-Family-Law-Procedure**

Below are some highlights.

Rule 2. The changes to Rule 2(B)(2) are purely stylistic and are made to conform to the 2012 restyling of Rule 403, Arizona Rules of Evidence.

Rule 67. New Rule 67.1 implements the new "Uniform Collaborative Law Rules" a form of alternative dispute resolution intended to resolve a matter without intervention by a tribunal.

Rule 74. There are significant changes to Rule 74 pertaining to Parenting Coordinators, including but not limited to: the appointment, a stipulation, persons who may serve as a parenting coordinator, fees, and objections.

ADMINISTRATIVE ORDER

ADMINISTRATIVE ORDER No. 2016 - 006
REGARDING PARENT INFORMATION PROGRAM

All parents with minor children who are going through a divorce, legal separation, or paternity action in which the Superior Court has been asked to determine custody, specify parenting time or child support are required by statute to attend an educational program about the needs of children in these situations and the impact on them of restructuring family relationships. A.R.S. § 25-351. The Superior Court contracts with vendors to provide these parenting information program classes. The vendors provide a certificate of completion for each participant that must be filed with the Clerk of Court to demonstrate proof of attendance.

Family Court Administration and the Clerk of Court have worked with Court contracted vendors to provide electronic filing capabilities, to allow the contracted vendors to electronically file the certificates of completion. All contracted vendors currently have the ability to electronically file the certificates of completion.

Therefore, **IT IS ORDERED that the Clerk of Court shall not accept parent information program certificates for paper filing** for any parent information program that was conducted after January 15, 2016, unless specifically ordered to do so by the judicial officer assigned to the family court case. **The Superior Court contracted vendors shall electronically file the certificates of completion within 5 (five) business days of the parent completing the class.**

MCBA FAMILY LAW CLE

MARCH CLE

Family Law 101/201 Series

Time: Noon to 1;30 pm on March 4, 11, 18, and 29
Location: Maricopa County Bar Association
304 E. Palm Lane
Phoenix, Arizona 85004

March 4: How Financial Experts Can Help Your Case

- Presenters: Scott E. Evans, CPA/ABV/CFF, Simon Consulting, LLC and Brendan J. Kennedy, CPA/ABV/CFF/CVA/ASA, Canyon Financial Services, LLC
- Summary: This CLE will help the family law practitioner determine a spouse's income, track community expenditures and waste, identify and locate assets, and value businesses. Specifically:
  - Mr. Kennedy will cover the topic of business valuation for family law cases. The presentation will be most applicable to young attorneys and those that have had limited experience in dealing with clients with businesses. It will cover basic information family law attorneys should know when working with a client that has an equity interest in a business. Mr. Kennedy will provide information on the various valuation organizations and the designations you should look for when needing these services. The discussion will include the various standards of value, scopes of services and reporting options. Additionally, it will also inform participants of the various approaches and methodology used when valuing a company and the potential discounts and premiums that may exist.
  - Mr. Evans will cover forensic analysis and investigations related to family law cases. The presentation will cover the basics related to: when to seek the appointment of a Federally Authorized Tax Practitioner; factors necessary to determine spousal maintenance and child support; tips to know when to spend money searching for

hidden assets; and tracing separate property. Mr. Evans will also discuss how to best work with a CPA to receive the best value and outcome.

March 11: Rule 10 appointments

- Presenters: Annette T. Burns, Esq Law Offices of Annette T. Burns and Gregg R. Woodnick, Esq Gregg R Woodnick PLLC
- Summary: What's In It For You and Your Clients? The intricacies of Rule 10 will be explored with an emphasis on how the Rule affects children and how the Rule is most effectively used.

March 18: Special Actions and Appeals

- Presenter: Keith Berkshire, Esq., Berkshire Law Office, PLLC
- Summary: Tips and insights to help you with your special action cases

March 29: Navigating Specialty Courts

- Presenters: Commissioners Wendy Morton and Michael Mandell and
- Summary: 1.What are the different Specialty Courts? 2. How do you get there? 3. What do you do once you get there? 4. How do you use them effectively? 5 .What's the difference between Accountability Court and Enforcement Court?

Tax Considerations in Family Law

PLEASE JOIN MELVIN STERNBERG FOR A SEMINAR DISCUSSING TAX CONSIDERATIONS IN DIVORCE CASES. EVERY FAMILY LAW PRACTITIONER SHOULD ATTEND THIS SEMINAR. More Specifically:

- Tax deductibility of spousal maintenance and legal fees ;
- Dependent child deductions and tax credits

Presenter: **Melvin Sternberg, Esq**
Date: March 8, 2016
Program: 11:30 AM to 1:00 PM (Lunch Provided)
Location: MCBA
303 East Palm Lane
Phoenix, Arizona 85004

SAVE THE DATE – UPCOMING EVENTS

The Impact of the Affordable Care Act on Child Support

April 5, 2015

This CLE will provide an updated view of how the Affordable Care Act is impacting Arizona families and the family court orders. We will discuss practical approaches to address the medical insurance, tax exemptions and child support orders themselves.

Please submit specific questions you may have by March 30, 2016.

Presenters:	Debra Tanner, Section Chief Counsel, Office of the Attorney General Holly Wan, Assistant Attorney General, Office of the Attorney General
Date:	April 5, 2016
Time:	11:30am to 1:30pm (Lunch Provided)
Location:	Maricopa County Bar Association 303 E. Palm Lane Phoenix, Arizona 85004

and

Speed Networking with Family Law Judges
Reception

Date: TBD
5:30-7:30 p.m.
Maricopa County Bar Association
303 East Palm Lane Phoenix, Arizona 85004

Drinks and light appetizers will be served. This is a fun and casual way for the bench and bar to exchange information and engage in conversation outside of the courtroom. Using the speed networking model, the judges will rotate to the organized small groups of practicing family law attorneys.

LAW PRACTICE TIPS

Top 5 Social Security Tips for Family Law Practitioners

1. For Social Security Insurance (SSI) benefits eligibility child support post age 18 results in a dollar for dollar reduction in the monthly benefit because it is income to the "child." SSI is a monthly cash benefit (2015 $733/mo.) that a disabled child may apply for as an adult when they turn 18. Exception- if the child support amount justifies the expense of a court approved Special Needs Trust (SNT) then funds put into that SNT will not be counted as income.
2. Social Security considers spousal maintenance to be unearned income. The first $20 will not be considered but every dollar above that will likely result in a reduction in benefits.

3. Children who are raised by their grandparents maybe eligible for death, retirement or disability payments from social security based upon their grandparents social security record. But only if the grandparent has adopted the child or the parents are deceased or receiving disability benefits.

4. Any individual can obtain their social security statement, which provides their monthly benefit amount. The person can also meet with social security and request they calculate their benefits under different scenarios. The benefit statement is very helpful when projecting income in a dissolution matter.

5. A person may collect one half of their former spouses benefit if the couple:
    a. was married for 10 years,
    b. it is less than the person's benefit
    c. the person is unmarried;
    d. at least age 62 or older and,
    e. the ex-spouse is entitled to Social Security retirement or disability benefits.

WARNING! The Social Security system is undergoing many changes so it is important that the client check the status of their benefit options by contacting social security and a financial advisor familiar with social security benefits before making decisions. Setting up a meeting with Social Security is free and they answer questions by phone so no excuses.

Thanks to Jennifer L. Kupiszewski for these great tips

DECREE QDRO LANGUAGE

Lawyers often reflect in a PSA or Decree that someone will draft the QDRO to divide retirement assets. However, as part of that function, often times the drafter must engage in some kind of calculations, such as determining a sole and separate amount of the retirement asset. Parties should consider including a statement under that provision that reflects the Court has ongoing jurisdiction to address such disputes and that such a provision does not amount to an arbitration clause or the like. If not, parties face the potential of a judge denying any objection filed by a party, stating that the parties did not reflect the Court has ongoing jurisdiction over the matter as the Decree or PSA omits any reference to either party having a legal basis to object to a calculation.

Thanks to Judge Ronee F. Korbin Steiner (Superior Court of Arizona in Maricopa County) for this tip.

If you have a law practice tip you would be willing to share, please send it to the Family Law Section newsletter, c/o Laurie Williams (MCBA Representative) at: lwilliams@maricopabar.org

When submitting a law practice tip, please let us know if you would like your name included or not.

TIPS FROM THE BENCH

TIPS FROM THE BENCH
THEODORE CAMPAGNOLO
SUPERIOR COURT OF ARIZONA
SOUTHEAST FACILITY

1. Always, and I mean **always**, treat my staff with courtesy and respect. The staff is an extension of the Judge, and I expect them to be treated the same as you would treat the Judge.

2. Be on time. The Court will start the clock at the scheduled time, whether the parties are present or not.

3. Budget your time and finish on time. Except in extraordinary circumstances, you will be held to your time, even if you are in the middle of cross-examination.

4. Bench copies are required from both parties for all trials/evidentiary hearings. It is mandatory that the exhibits in your bench book contain the same numbers as the exhibits marked by the Clerk. I have no preference as to the bench copy formats (binders, stapled, clipped). I will return binders to the parties after the hearing.

5. Before filing a motion, always contact the other side for their position, and then include that position in your motion. This will often avoid delay in the Court's ruling, especially if it is of a time-sensitive nature.

6. Always submit a form of Order with your Motion.

7. I will not grant blanket admission of all trial exhibits. You will need to separately introduce all documents that are relevant to your case. This is important to remember, so you can include this factor when you are budgeting your time.

8. Your RMC statements and pre-trial/pre-hearing statements are important to the Court. The only pleadings the Court usually has are the Petitions and Responses, which may not contain the current status of the case. Your statements need to inform the Court of any settlements, and provide the current positions being taken by the parties.

9. If you settle your case, notify the Court immediately, preferably by a stipulated notice of settlement, so that the Court can vacate any upcoming hearings.

10. Whether you e-file or hand file your pleadings, make sure the Court gets a conformed copy. Otherwise, we may not know that you have filed something, which will contribute to a delay in ruling on your pleading.

ARTICLES & CONTRIBUTIONS

Changing the Parenting Coordinator Rule:
In Essence, Providing for Litigants to Choose a Private Judge

By: David Weinstock, J.D., Ph.D. and Annette Burns, J.D.

As of January 1, 2016, Rule 74, Arizona Rules of Family Law Procedure, will be changing. Initially intended to reduce the Court's ability to unilaterally appoint a parenting coordinator, the rule morphed into one wherein litigants are essentially provided with an avenue for choosing to hire a private judge post-decree. With the change in focus comes a number of changes to the rule itself.

1. Stipulation:

The new rule requires that a parenting coordinator may only be appointed by stipulation of the parties. The written stipulation (or stipulation recited on the record in open court) is required to include the following:

1. Billing:

a. An understanding of the parenting coordinator's billing practices (e.g. hourly rate and retainer requirements).
b. An acknowledgement that the parties are able to pay the fees.

2. Selection method:

    a. The method by which the parties will select their parenting coordinator (e.g. stipulation for a specific name or blind lists submitted to a judge).

3. Release of documents:

    a. The parties shall agree that they will release, or cause to be released, relevant documents so the parenting coordinator can perform his/her job. This is similar to the current expectation that a parenting coordinator will have access to records, but the litigants must acknowledge this from the initial appointment.

4. Term:

    a. The parties shall identify the agreed-upon term of the parenting coordinator. As is the current norm, it is anticipated that it will be a one-year term, subject to the parties' agreement to renew reappointment on an annual basis thereafter.

5. Bound by the decision:

    a. A significant difference between the old and new parenting coordinator rule is the authority granted to the parenting coordinator. This is further discussed below.

The intent and impact of this change appears to be aimed at providing for a more informed and educated consumer. Under the old rule, the Court could identify a case with significant parenting disputes and, without the parties' consent, appoint a parenting coordinator to work with the parties on those disputes. While this was often an effective process, it also resulted in cases where one parent could not afford to pay the parenting coordinator and thus felt excluded from the process, because without paying, they were generally not able to fully discuss all their issues. Under the new rule, parenting coordinator fees will be identified and agreed to by the parents before the professional is appointed. Parenting coordinators will then be expected to stay on top of their identified rates and retainers – as per the family court roster.

The most important and obvious result will be that the highest-conflict parents (e.g. arguably the most difficult parenting coordinator clients) will be less likely to agree on a parenting coordinator and more likely to take their disputes to court. Cases in which one party refuses to participate with the parenting coordinator should be greatly reduced or eliminated.

2. Reallocation:

Another change will likely involve the provision regarding reallocation of parenting coordinator fees. Under the old rule, parenting coordinators were often asked to recommend reallocation of fees due to the behaviors of the other parent. The old rule allowed for a recommendation for reallocation "under special circumstances."[1] The new rule allows for reallocation only "Where one parent is

[1] The prior rule language was further elaborated within the old form of appointment order.

reasonably believed to be using parenting coordinator services excessively or to harass the other parent…"

Specifically, under the old rule it was commonplace to recommend reallocation if one parent did not follow orders. For example, if a parent clearly and consciously violated court orders, it made for an objective basis to identify that the behaviors were unreasonable. The new rule, however, seems to focus more on motivation rather than an objective assessment of rule violations. In order to recommend a reallocation, the parenting coordinator now must identify that the use of the services is excessive or intended to harass the other parent. It is expected that most parenting coordinators will be less likely to make such subjective judgments, and thus less likely to recommend reallocation under the new rule.

3. Objections to a report:

Further, the process and standards for filing an objection have changed. Specifically, the objection period has changed from ten days to twenty days. More importantly, the basis for an objection has changed dramatically. While the old rule allowed for an objection to be filed on essentially any basis, the new rule is very restrictive. Formerly, "a party who objects shall clearly state in writing the objection to the recommendation, the basis for the objection, a proposed solution, and whether a hearing is requested." There is no identified limitation in the old rule as to the basis for an objection. The new rule allows for the parenting coordinator's **decision** to be binding unless it was outside of the parenting coordinator's scope. The rule explains, "Provided that the parenting coordinator acted within the scope of authority pursuant to this rule and the appointment order, the parenting coordinator's decision is binding. If a parent believes that the parenting coordinator's decision exceeds the scope of the parenting coordinator's authority, the parent may object to the parenting coordinator's decision by filing a pleading with the court entitled "Objection."

This rule change further evidences the expanded role offered to the parenting coordinator. The basis for an objection under the new rule is very limited. Essentially, the new rule assigns the decision-making authority to what has become a private agreed-upon judge, as long as the professional remains within his/her identified scope.

Court calendars may be lightened somewhat by the lack of objections to the substance of a parenting coordinator decision. If litigants continue to file objections by stating that a decision is outside the scope of authority, it is possible the court can quickly resolve those objections by simply reviewing the decision, without setting a hearing.

4. Changes to Emergency Authority:

One of the advantages to the former parenting coordinator role was the professional's ability to intervene very quickly (e.g. the day an emergent issue arises) in order to protect a child. Specifically, the prior rule allowed for a parenting coordinator to make a binding decision to protect a child until such time as the Court could address the issue, stating as follows: "When a short-term, emerging, and time sensitive situation or dispute within the scope of authority of the parenting

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"… should the parenting coordinator determine that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the parenting coordinator may recommend to the Court a different allocation for payment of fees.

IT IS FURTHER ORDERED that should the parenting coordinator find any party is acting in bad faith, and/or not complying with the Court's orders, the parenting coordinator may recommend that the party acting in bad faith pay or reimburse the other party's costs of services provided by the parenting coordinator necessitated by the party acting in bad faith, and the parenting coordinator may recommend additional sanctions which may include modifications of access and/or contempt proceedings."

coordinator arises that requires an immediate decision for the welfare of the children and parties, a parenting coordinator may make a binding temporary decision."

However, the revised role practically eliminates such authority, requiring that the parenting coordinator personally observe the actions of a parent who is so impaired that s/he would be unable to function as a parent. The rule specifically identifies, "If, based upon the parenting coordinator's *personal observation*, the parenting coordinator determines that a parent's functioning is impaired and the parent is incapable of fulfilling either the court-ordered legal decision-making or parenting functions, or the parent's conduct will expose the child to an imminent risk of irreparable harm, a parenting coordinator is authorized to file a motion for temporary orders without notice pursuant to Rule 48." (Emphasis added) It seems likely that in most cases, the parenting coordinator will not have the opportunity to personally observe destructive behaviors that might affect parenting. If destructive parenting behaviors are alleged, the parenting coordinator's only option will be to tell the reporting parent to seek an emergency order from the court.

5. Parenting Coordinator Authority

The practical impact of this rule change is debatable. As identified, parenting coordinators have been assigned a much greater authority, more like an arbitrator making binding decisions, as long as their decisions remain within the scope of the parenting coordinator's authority. The scope of authority has essentially remained the same, as the professional is permitted to make decisions except those that: (a) affect child support, spousal maintenance, or the allocation of property or debt; (b) change legal decision-making authority; or (c) substantially change parenting time. As such, any decision that does not infringe on those three areas, whether it is emergent or not, is within the scope of the parenting coordinator.

As a practice tip, attorneys helping their clients stipulate to the appointment of a parenting coordinator should make sure the client is provided with a copy of Rule 74, and the client's attention should be directed to Rule 74H(1) which defines the parenting coordinator's rather broad scope of authority.

The rule changes bring up important questions about specific issues. If a parenting coordinator recommends a temporary suspension of parenting time, is that a "substantial" change in parenting time? If a parenting coordinator recommends that a parent can make an emergent legal decision, is that "a change" to legal decision-making authority? It is not clear if temporary or one-time decisions would be beyond the scope granted by the rule.

Conclusions:

The parenting coordinator rule changed dramatically after January 1, 2016. There likely will be a reduced number of parenting coordinator assignments overall, and the most difficult cases (cases in which parents cannot agree to the appointment of parenting coordinators) will remain on the Court's calendar. Cases in which the parents do agree to a parenting coordinator appointment will likely proceed more expeditiously. Most importantly, the chosen parenting coordinator will have increased authority, with a responsibility to make decisions within the scope of his/her role, rather than simply recommendations.

NEW ARIZONA CASES

Abbreviations (that might be) Used

Please note the following abbreviations commonly used in the analysis of the cases that follow:

C/A	Court of Appeal	H	Husband	P/T	Parenting Time
T/CT	Trial Court	W	Wife	ARS	AZ Revised Statutes
S/C	Supreme Court	S/M	Spousal Maintenance	C/P	Community Property
F	Father	C/S	Child Support	S/P	Separate Property
M	Mother	C/C	Child Custody		

Case reviews are provided by members of the Board of Directors of the Family Law Section.

Basic Information
Choate v. Cochran, No. 1 CA-CV 14-0687 FC, 2015 WL 8917491, (Ariz. Ct. App. Dec. 15, 2015)
Procedural History
This is a paternity action. Mother told Father he was the father of her child even though she later admitted she knew all along that he was not. Father was on the birth certificate, the child bears fathers last name and at some point after the birth of the child the parties signed an acknowledgement of paternity. The parties lived together until the child was two. Mother moved out when an old boyfriend came back into the picture but the parties shared equal parenting time for about two months until mother stopped allowing Father visitation. As a result, Father filed for paternity, legal decision making, parenting time, and child support. In response, Mother contended that Father was not the biological father. The Trial Court ordered DNA testing. Results of DNA testing confirmed that Father was not the child's biological father. The Trial Court found that the presumption of paternity had been rebutted and dismissed Father's petition. The Trial Court found that Mother was entitled to withdraw her acknowledgement of paternity because identifying the wrong potential father is a material mistake of fact. Father appealed the Trial Court's dismissal of his Petition for Court Order for Paternity, Legal Decision Making, Parenting Time and Child support.

Ruling

The Court of Appeals reversed the Trial Court noting that Mother had intentionally deceived Father, therefore she was not entitled to the mistake of fact claim under Rule 60(C). The Court of Appeals went on to state that the fact of another man's biological paternity, is insufficient alone to "disestablish paternity." Any change to legal status "could occur only via termination of [the father's] parental rights as provided for under the statutes." "Public policy will not support the removal of a man willingly and actively engaged in the parenting of a child in order to leave her fatherless." The Court of Appeals issued a new memo decision reversing the Trial Court's dismissal of Father's Petition and remanding with instructions that the Trial Court proceed with the determinations for legal decision making, parenting time, and child support.

Basic Information

Stein v. Stein, 2015 WL 8115574 (Only the Westlaw citation is currently available)

Procedural History

F appeals to Court of Appeals, Division 1 from Maricopa County Superior Court order granting upward deviation of child support from $184.24 per month to $7,500.00 per month, following the denial of his Motion for New Trial, and Motion for Additional Fins of Fact (as to child support, only)

Ruling & Summary

Facts: M and F have prenuptial agreement which states neither party entitled to S/M if parties divorce. At time of dissolution, F earns $3 Million per year; M is unemployed. Dissolution proceeds to trial, and in advance of hearing, F makes a request for findings of fact and conclusions of law. T/CT enters decree which awards F sole legal decision-making authority of parties' four minor children and names him primary residential parent. Mother receives limited supervised parenting time, with F responsible for 90% of supervision costs. In ordering child support, T/CT concludes upward deviation above guideline amounts is appropriate and orders F to pay to M $7, 500.00 per month.

Ruling: Though the record supports T/CT finding that disparity in financial resources is justifiable ground for upward deviation from the Guidelines, it must be clear from T/CT's findings how it arrived at a mathematical figure (i.e. how did T/CT arrive at $7,500 per month)

The C/A therefore **REMANDED** case to T/CT for further proceedings and further findings.

Basic Information
Case name/Cite *In re the Marriage of Merrill v Merrill,* 1 CA-CV 13-0649
Procedural History
H and W were married in 1963 and divorced in 1993. H served in Vietnam, where he was injured. He retired from the military in 1983. At the time of divorce, H was receiving military retirement pay (MRP) and VA disability benefits with a disability rating of 18.62%. H and W were each awarded one-half of the MRP as their SP to be divided via QDRO at the dissolution of their marriage. After the divorce, H became completely disabled. The VA changed his disability rating from 18.62% to 100% and determined he was eligible to receive CRSC (a program which allows some injured combat veterans to waive a portion of their disposable MRP for an equal amount of CRSC – which is tax free). Federal Law does not allow any court to determine CRSC to be community property. H waived a large portion of his MRP to receive the CRSC and as a result, W's one-half monthly share was reduced significantly. W filed a petition for arrearages in family court for her reduced share of the MRP and for future losses. The T/C denied her request relying on ARS § 25-318.01. The C/A reversed and held that § 25-318.01 only applies to VA disability benefits awarded pursuant to 38 USC Chapter 11, not CRSC awarded under 10 USC § 1413a. The C/A determined that H must indemnify W against her loss of the MRP and remanded the case to the T/C for a determination of whether such indemnification could occur from non-exempt assets. On remand, the T/C awarded W $128,574.35 in MRP arrearages and ordered payment from any and all non-exempt income and assets and ordered a monthly repayment obligation. H appealed. While this appeal was pending, §25-318.01 was amended to include applicability to CRSC benefits. Therefore the C/A deemed the original enforcement petition denied. W sought relief from the Arizona Supreme Court.
Ruling
ARS § 25-318.01 may not be used to prohibit the family court from entering an indemnification order to compensate the non-military ex-spouse for a reduction in MRP benefits resulting from the veteran's election to receive CRSC when the decree was entered prior to the statute's effective date.

Basic Information
Case name/Cite *In re the Marriage of Howell v. Howell,* 2 CA-CV 2014-0112
Procedural History
In dissolution, W was awarded 50% of H's military retirement pay (MRP) to be paid via direct payment. Years later, H received a disability rating from the Department of Veteran's Affairs and elected to reduce his MRP in favor of disability payments. W's payments were also reduced.
Ruling
ARS § 25-318.01 may not be used to prohibit the family court from entering an indemnification order to compensate the non-military ex-spouse for a reduction in MRP benefits resulting from the veteran's election to receive CRSC when the decree was entered prior to the statute's effective date.

Basic Information
Sheets v. Mead/Reynolds, 238 Ariz. 55 (2015).
Procedural History
Special Action from the Superior Court in Maricopa County seeking relief from Superior Court order granting former same-sex partner visitation with adopted Child under A.R.S. § 25-409(C)(2)
Ruling & Case Summary
Facts: Former same-sex couple agree to foster two-year old child with adoption plan. Couple legally prohibited from marrying or adopting child together, and decide Petitioner will adopt the child alone. Adoption finalized in 2010. Shortly thereafter, the couple's relationship ends. In 2014, Petitioner allegedly disallows visitation between child and Petitioner's former partner, and child's former foster parent. Former partner petitions T/CT for equal-time visitation under A.R.S. § 25-409(C)(2). T/CT finds former partner stands *in loco parentis* to Child and grants visitation. Ruling: T/CT abused its discretion when granting substantial visitation rights to former romantic partner of Petitioner/Adoptive Mother pursuant to A.R.S. § 25-409(C)(2) where the Child was legally adopted by Petitioner. The Court affirms:

(a) A person seeking nonparent visitation must demonstrate that a child was born out of wedlock (A.R.S. § 25-409(C)(3))
(b) That a child who is adopted obtained the legal status of a child born to the adoptive parent in “lawful wedlock” (A.R.S. § 8-117(A))

The Court therefore held:

A child who is adopted before a visitation petition is filed is not eligible for nonparent visitation under A.R.S. § 25-409(C)(2)

Relief **GRANTED**