

Protective Orders In Arizona

In Arizona there are the Rules of Protective Order Procedure. These rules detail the procedure that a court is to follow and the findings that the court must make. I would like to highlight 2 rules that I have found to be extremely helpful in litigating these cases. The first rule is helpful when both parties petition the court for a protective order. That rule is Rule 1 G. which states “Where each party has separately petitioned the court for a protective order, a judicial officer may grant separate protective orders based upon findings that each petitioning party is entitled to protection and makes findings of fact indicating that the respondents in each of those actions acted primarily as aggressors and not in self-defense.” The other rule is helpful when one of the parties is alleging harassment, which requires at least two acts, as their basis for the protective order with one of the acts stemming from emails or contact with some designated third party. That rule is Rule 1N.1. which states that “The plaintiff should provide copies of any protective order to third parties, such as employers, apartment managers, schools, security personnel and law enforcement in other jurisdictions.”

In obtaining a protective order, the rules also contemplate the award of costs and attorneys’ fees. In order to receive costs and attorneys’ fees, Rule 2C.1. states that there must be a hearing with notice to the affected party. In determining whether to award costs and attorneys’ fees, under Rule 2C.2. the court is to consider the following: a. the merits of the claim or defense asserted by the unsuccessful party, b. whether the award would pose an extreme hardship to the unsuccessful party, and c. whether the award may deter others from making valid claims.

Protective orders require that you meet the relationship test as enumerated in A.R.S. § 13-3601(A) and there must be an act of domestic violence which is also defined in that same statute.