

Injunction Junction

Flowers won't resolve a restraining order

By Judge Gerald A. Williams

Most people don't want to be alone on Valentine's Day. Every February 14, romantic couples and friends exchange cards, candy and flowers. The holiday is celebrated in our country, as well as in Canada, Mexico, the United Kingdom, France and Australia.

According to the National Retail Federation, spending connected to Valentine's Day contributed approximately \$19.6 billion to the U.S. economy in 2018. Perhaps not surprisingly, men spent nearly twice as much as women: \$196.39 per gentleman versus \$99.87 per lady. But what if you are being romantically pursued by someone who you want to leave you alone? One option is an Order of Protection.

Any adult can request an Order of Protection at any trial court in Arizona. For example, let's say you live in Anthem but work in downtown Phoenix. While you are free to drive to my court, there are closer courts at the Northeast Regional Court Center near Union Hills and Highway 51, the Downtown Justice Center near Seventh Avenue and Madison, and the Phoenix Municipal Court, which is across the street from Comerica Theatre. (Why the justice court with jurisdiction over Anthem is located in Surprise is perhaps a topic for another article.)

While every court will have someone available to assist people requesting protective orders, perhaps the best resources are available at the Maricopa County Superior Court's

Law Library Resource Center. It is in Central Court Building on Jefferson Street. More information on that location is available at superiorcourt.maricopa.gov/llrc/protective-orders.

In order to grant a request for an Order of Protection, the judge must find reasonable cause to believe that the defendant may commit (or has committed) an act of domestic violence within the past year. For this purpose, domestic violence is defined very broadly under A.R.S. § 13-3601(A) and includes offenses like harassment by telephone, stalking, surreptitiously photographing and cruelty to animals. In short, someone does not need to be chased with a knife to be a domestic violence victim.

Orders of Protection also require that certain types of relationships exist between the parties. For example, Orders of Protection can be issued if the parties were married, have a child in common, had a romantic or sexual relationship, or are family members. If the parties do not meet the requirements for an Order of Protection, then the person requesting the court order may be able to obtain an Injunction Against Harassment instead. Court staff can provide assistance in determining which type of protective order is appropriate.

People across every socioeconomic and educational level have the potential to become irrational when either potential or failed ro-



mances are involved. Some things fail for illogical reasons. Although I have been asked to do so, a judge cannot order that a witness explain the factual basis for a breakup. The key is that even if one or both sides behave badly, both sides remain safe. ■

Judge Gerald A. Williams is the Justice of the Peace for the North Valley Justice Court. The court's jurisdiction includes Anthem and Desert Hills.

New Law on How Protective Orders Are Served

Courts do not charge a fee to people requesting an Order of Protection, and if they are served on the defendant by either a constable or another law enforcement official, there is no charge for having them served. But the other two branches of government recently changed how they are served.

Last year, the legislature passed, and the governor signed, House Bill 2249. That law amended A.R.S. § 13-3602 to require the court that issued the Order of Protection provide it to the appropriate law enforcement agent so that it can be served. Previously, the person who obtained the order was responsible for getting it served.

The Arizona Criminal Justice Commission requested the legislation in response to concerns that only half of the Orders of Protection that were issued were actually served. There was also a concern that it was taking approximately 13 days for the protective orders that were served to be served. The new system will be electronically based and should make the system more efficient by modernizing it.

