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9 **SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **COUNTY OF MARICOPA**

11 In the Matter of:

12 JD33768
13 JS18922

14 **RESPONSE AND OBJECTION TO**
15 **REQUEST FOR VIDEO**
16 **VISITATION**

17 (Hon. Jo Lynn Gentry)

18 Counsel for crime victims [REDACTED]

19 in the pending criminal case *State v. Josiah English III* (CR2017-105183-001) respectfully
20 asks that the Court deny Mr. English's request for video visitation with the children
21 because: (1) video visitation may violate the children's constitutional right "[t]o be
22 treated with fairness, respect, and dignity, and to be free from intimidation, harassment,
23 or abuse, throughout the criminal justice process." Ariz. Const. art. II, § 2.1(A)(5); *cf.*
24 *State v. Lee*, 226 Ariz. 234, 238-39 (App. 2011) ("[E]ven if the right to refuse to be
25 deposed is limited to the duration of the criminal justice process, a victim may assert that
right in any venue during that time."); and (2) continued contact with Mr. English might
harm the children.

1 Crime victims have a constitutional right “[t]o be treated with fairness, respect,
2 and dignity, and to be free from intimidation, harassment, or abuse, throughout the
3 criminal justice process.” Ariz. Const. art. II, § 2.1(A)(5). This right likely extends to
4 “any venue” as long as the criminal case is pending. *Cf. State v. Lee*, 226 Ariz. 234, 238-
5 39 (App. 2011) (“[E]ven if the right to refuse to be deposed is limited to the duration of
6 the criminal justice process, a victim may assert that right in any venue during that
7 time.”) As in *Lee*, the right to be treated with fairness, respect, and dignity, and to be free
8 from intimidation, harassment, or abuse is “immediately and completely defeated” if a
9 defendant can intimidate, harass, or abuse a victim in a separate proceeding. *Id.* at 239.

10 Here, ██████████ are victims in the pending criminal case *State v. Josiah*
11 *English III*. The children therefore have a right to be free from intimidation and
12 harassment. Given the holding in *Lee*, this right should extend to any venue. Allowing
13 Mr. English video visitation with the children jeopardizes this right, as it provides him a
14 chance to confront and intimidate the children. Furthermore, any order from this Court
15 allowing visitation would conflict with the criminal court’s order that Mr. English not
16 “initiate contact with the alleged victim or victims” if he is released from pretrial
17 detention. Exhibit A at 1.

18 Perhaps more important, continued contact with Mr. English might harm ██████████
19 ██████████. *See* Robert Straus, *Supervised Visitation and Family Violence*, 29 *Fam. L.Q.*
20 229, 238 (1995) (suggesting that “continuation of contact with the abusive parent even in
21 a secure setting may still damage the child.”). (Counsel defers to the Department of
22 Child Safety on individualized findings of harm.) It is also undersigned counsel’s
23 understanding that neither child would like to have contact with Mr. English and that the
24 Department of Child Safety supports the children’s decision.
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