

Attachment A

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IN THE SUPREME COURT
STATE OF ARIZONA

Supreme Court No. R-23-0027

**PETITION TO AMEND RULE 11(b)(1),
ARIZONA RULES OF PROCEDURE
FOR EVICTION ACTIONS**

DECLARATION OF ALAN R. SOLOT

1 I, Alan R. Solot, declare the following:

2 1. I am a managing attorney with Southern Arizona Legal Aid, Inc.
3 (“SALA”). I oversee SALA’s consumer, housing, and public benefits unit. I have
4 worked at SALA since July 18, 2022.

5 2. Prior to joining SALA, I was an attorney in private practice primarily
6 focused on consumer bankruptcy representation.

7 3. SALA is the one of three legal aid organizations in Arizona, and the only
8 legal aid organization providing clients direct representation in Southern Arizona. Based
9 in Tucson but with offices in six Arizona locations, SALA provides free, direct legal
10 services to low-income individuals in a variety of civil practice areas in nine of Arizona’s
11 fifteen counties and in eleven of Arizona’s twenty-one Native American communities.
12 SALA provides legal services in approximately 5,000 cases per year.

13 4. Twelve of SALA’s twenty-four attorneys represent tenants in housing
14 cases. SALA represented 1,806 tenants in housing cases in 2022. SALA represented 630
15 tenants in housing cases thus far in 2023.

16 5. As a managing attorney, I supervise attorneys in SALA’s Tucson housing
17 unit. I also take on cases for direct representation, assisting people who are facing an
18 eviction in justice court.

19 6. I routinely represent tenants in the Pima County Consolidated Justice
20 Court. My below representations are based solely on my experience in Pima County
21 Justice Court (the “Court”).

22 7. The Court conducts hearings in eviction cases both in person and remotely,
23 permitting telephonic and video appearances. The practice of remote appearances has
24 been in place since the onset of the pandemic.

25 8. The Court issues a Notice of Hearing when an eviction action is filed. A
26 redacted sample of such a notice of hearing is attached to this Declaration. Such notice,
27 intended to be served on defendants with the summons and complaint, includes:

28 (1) In bold type and all capital letters, the words, “YOU MAY
APPEAR BY VIDEO, TELEPHONE OR IN PERSON”

1 (2) Three options:

2 i. Option 1: appear by Zoom with instructions how to so
3 appear, including an internet link to Zoom, and to type the
4 “meeting ID.”

5 ii. Option 2: appear by telephone with a telephone number
6 and the need to “type in” the meeting ID.

7 iii. Option 3: appear in person, with the Court’s street address.

8 (3) An eleven-digit number “meeting ID” that appears twice on
9 the notice.

10 9. When I elect to appear via the Zoom option, my procedure is to log on
11 using the provided Zoom link approximately five minutes before the scheduled hearing.
12 When I log on, I am automatically placed in a virtual “waiting room.” Most of the time, I
13 am let out of the waiting room by the Court’s clerk. Then, I am checked in by the
14 Court’s clerk, to whom I provide the name of the defendant I represent. I then am again
15 placed in the waiting room. While in the waiting room, I do not see or hear any other
16 cases. I am moved from the waiting room to the courtroom when my case is called.

17 10. While in the waiting room, I have no access to the court or the clerk, nor do
18 I have a mechanism by which to call their attention.

19 11. Last September, a default judgment was entered against a client I
20 represented, even though I attended the hearing.

21 12. I had appeared at the initial hearing. At the initial hearing, the case was
22 continued for a week for a status conference.

23 13. To appear at the status conference, I logged onto the Zoom application
24 using the link provided. I was in the waiting room and was never checked in by the
25 Court’s clerk. My client was physically in my office with me at that time. I remained in
26 the “waiting room” for over an hour.

27 14. At that point, I reviewed the Court’s online file and discovered that a
28 default judgment was entered evicting my client.

15 15. I had waited on hold believing that the hearing was delayed. However, the
16 hearing commenced without me or my knowledge while I was in the “waiting room.”

17 16. I had to explain to my client that an eviction judgment was entered against

1 him. My client was elderly and had a cognitive disability. I believe this experience was
2 very upsetting for him. It was upsetting to me as a practitioner with experience
3 throughout my career representing clients on court calendars with multiple hearings
4 scheduled for the same block of time.

5 17. I was able to file an emergency motion to set aside the judgment, under
6 Rules of Procedure for Eviction Actions, Rule 15. The motion was granted.

7 18. If my client had been unrepresented, he would have had no ability to file a
8 motion to set aside the judgment, regardless of how readily such a motion, under these
9 facts, would be granted because he lacked the mental capacity to know or learn how to
10 file such a motion.

11 19. My client would have been evicted because of the failure of the clerk to
12 double check by calling the case again to see if anyone was present for the matter.

13 20. It is my position that had the Court had the process in place as proposed by
14 the Rule Amendment to 11(b)(1), RPEA, the Court likely would have discovered my and
15 my clients' appearance at the hearing.

16 21. It is my observation that, at present, most plaintiffs in eviction actions are
17 represented by counsel. Plaintiffs' counsel in eviction actions regularly receive informal
18 courtesies when they are not present when it is time for their cases to be called on
19 eviction hearing calendars.

20 22. The Court in Pima County typically does not call a case if the plaintiff's
21 attorney is not present. Instead, the Court waits to call the case until plaintiff's attorney is
22 present. The Court often will direct the courtroom deputy to contact plaintiff's attorney
23 to determine the cause of the failure to be present. If plaintiff's attorney is not present by
24 the end of that calendar, then the Court will then normally ask if the defendant's attorney
25 will agree to continue the hearing. Our office would normally agree to such a
26 continuance.

27 23. It is my position that the process proposed by the Rule Amendment to
28 11(b)(1), RPEA, would balance calendar practices often used informally by presiding

1 judicial officers in Pima County Consolidated Justice Court for plaintiffs' counsel in
2 eviction actions.

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4 I declare under penalty of perjury that the foregoing is true and correct.

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6 Executed this 25th day of May 2023, at Tucson, Arizona.

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/s/ Alan R. Solot SBN 006587
Alan R. Solot

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<p><i>STATE OF ARIZONA or PLAINTIFF(S) Name</i></p> <p>██████████</p> <p>Pltf Atty: ██████████</p>	<p>Case No: CV23-██████-EA</p> <p>NOTICE OF HEARING</p> <p>Eviction Action</p>	<p><i>DEFENDANT(S) Name</i></p> <p>██████████</p> <p>Deft Atty:</p>
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This matter is hereby set for a hearing with Judge NEWMAN on ████████ 2023 at 02:00 PM.
YOU MAY APPEAR BY VIDEO, TELEPHONE OR IN PERSON
 Your Meeting ID: **95161024832**

Option 1 - To join the hearing via-zoom video:

Please go to: www.zoom.us/j and type in the meeting ID. For example:

To appear via video conference on Zoom, you must have an internet connection. You can use a smart phone, iPad/tablet, or computer/laptop that has sound & video capability. You will also need to install the Zoom App (www.zoom.us) before the time of hearing.

Upon connecting to the Zoom hearing, you will be placed in a “waiting room.” Do not hang up or close the Zoom application.

Option 2 - To join the hearing via-telephone: *You do not need the ZOOM application to appear by telephone.*

Dial **1-888-788-0099** (toll free) and type in the meeting ID. **(95161024832)**

Upon connecting to the meeting, you will be placed in a “waiting room” until staff can speak with you.

Option 3 – To join the hearing in person:

Visit the courthouse in person at 240 N. Stone Avenue, Tucson, AZ 85701.

IF YOU FAIL TO APPEAR AS ORDERED ON A CRIMINAL CASE, A WARRANT MAY BE ISSUED FOR YOUR ARREST, AND YOU MAY BE PROSECUTED UNDER PROVISIONS OF TITLE 13 OF THE ARIZONA REVISED STATUTES.

IF YOU FAIL TO APPEAR ON A CIVIL TRAFFIC OR CIVIL CASE A DEFAULT JUDGMENT MAY BE ENTERED.

If you require an ADA accommodation, please visit <https://www.jp.pima.gov/ADAform> or call 520-724-3171
 If you require an interpreter call 520-724-3171 as soon as possible.
 Si necesita un intérprete, llame lo antes posible al (520) 724-3171.

DATE: ██████████ JUDGE: /s/ RON NEWMAN

Original to File

Copy/Notification To:	US Mail	Runner Service	Email	Hand Delivered	Telephone/Voice Mail
County Attorney/Officer					
Plaintiff(s)/Attorney(s)					
Defendant(s)/Attorney(s)					
Garnishee					

Clerk:
 dajvix _____

Date: ██████████