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North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85274

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-24-
PETITION TO AMEND)	
RULE 5(a)(2))	Petition from the
of the RULES OF PROCEDURE)	Maricopa County
FOR EVICTION ACTIONS)	Justice Court Bench

BACKGROUND

The Petitioners request the Rules of Procedure for Eviction Actions be amended to correct language that has been confusing for some self-represented litigants. Currently, parties are served with a summons directing them to call courts two-hours early. This Petition is filed on behalf of the Justice of the Peace Bench in Maricopa County. This Petition was presented and endorsed at a bench meeting on November 8, 2023. We respectfully recommend the adoption of the proposed amendment.

STANDARDIZED PROCEDURES FOR REMOTE COURT APPEARANCES HAVE ELIMINATED THE USEFULNESS OF REQUIRING PARTIES TO CALL A COURT TWO-HOURS BEFORE THEIR SCHEDULED TIME.

Rule 5 of the rules that govern residential actions was amended¹ in response to the adoption of A.R.S. § 22-206. That statute requires courts to permit litigants and attorneys to appear remotely at the initial appearance in residential eviction actions by using a telephone or video conference connection. The rule currently requires the summons to state that litigants must contact the court at least two hours in advance of their scheduled appearance for directions. This advanced warning was intended to allow the court to facilitate the remote appearance. This practice was appropriate when adopted because litigants, attorneys, and witnesses were attempting to appear through a variety of different remote platforms. However, this is no longer the case, as the vast majority (if not all) of evictions now take place in courts that have established means for appearing virtually. Thus, this requirement now generates frustration and confusion rather than facilitating the process.

¹ David K. Byers, R-21-0039, *Petition to Amend Rules 5, 6, and 11, and Appendix A of the Arizona Rules of Procedure for Eviction Actions*, (Jul. 1, 2021). On December 8, 2021, the Arizona Supreme Court adopted the proposed amendments on an emergency basis and they became effective on January 1, 2022. Arizona Supreme Court, *Order Adopting on a Permanent Basis Amendments to Rules 5, 6, 11 and Appendix A of the Rules of Procedure for Eviction Actions* (Dec. 8, 2021).

The Justice Courts in Maricopa County now have well-established procedures for tenants, landlords, and witnesses to appear remotely for eviction actions through a Microsoft Teams based system. Instructions for doing so are provided in every case. But also provided in every case is a Summons containing language similar to the following:

A landlord, tenant, attorney, or witness may participate at the initial hearing through a telephone or video conference by contacting the court for directions at least two hours before the hearing, to ensure the court has time to make necessary arrangements.

This language directly causes a waste of judicial resources. Any self-represented litigant following these instructions in Maricopa County will be told by court staff that they did not need to do so. This counterproductive telephone call causes members of the public to waste their time and data resources, and it prevents court staff from helping people who actually need help. Given that Justice Courts in Maricopa County are currently hearing approximately 7,300 eviction actions each month, the potential level of inefficiency is enormous. The obvious solution is to abolish the requirement in courts which have an established process and automatically distribute instructions for that process.

The suggested language merely amends the rule to state the obvious. There is no need to contact the court for instructions if the court has already given you instructions. This much needed change will provide relief to

Justice Courts (at least) in Maricopa County while continuing to provide flexibility to every court in the state hearing residential eviction actions. It should be adopted.

CONCLUSION

The Petitioners respectfully request that the proposed amendment to Rule 5(a)(2) of the Rules of Procedure for Eviction Actions be adopted. Doing so would resolve an unintended consequence.

RESPECTFULLY SUBMITTED, this 9th day of November 2023.

/s/ Anna Huberman
ANNA HUBERMAN
Presiding Justice of the Peace
Maricopa County
Justice Court Administration
222 North Central Ave., Suite 210
Phoenix, AZ 85004

Attachment:
Proposed Language

Attachment

Rule 5(a)(2) of the Rules of Procedure for Eviction Actions should be amended as follows (suggested language in red):

a. Summons. The summons in an eviction action shall be a document separate from the complaint, shall be issued in accordance with applicable statutory provisions, and shall identify the defendants to the action. If the name of a defendant is unknown, the summons and complaint may name a fictitious defendant and any occupants of the property. The court shall liberally grant leave to amend the complaint and summons to reflect the true names of defendants if they become known to the plaintiff. The summons shall also include the following: ...

(2) **The** date and time set for the trial of the matter; and that a landlord, tenant, attorney, or witness may participate at the initial hearing through telephone or video conference. **Unless the court has also provided instructions for appearing virtually, a person choosing to do so must contact** the court for ~~directions~~ **instructions** at least two hours before the hearing, to ensure the court has time to make necessary arrangements;

...