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IN THE SUPREME COURT

STATE OF ARIZONA

**PETITION TO AMEND RULE 5(d)
OF THE RULES OF PROCEDURE
FOR EVICTION ACTIONS**

Supreme Court No. R-24-_____

PETITION

Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, Community Legal Services (“CLS”), DNA People’s Legal Services (“DNA”), Southern Arizona Legal Aid (“SALA”), and the William E. Morris Institute for Justice (“MIJ”) respectfully petition this Court to amend the Rules of Procedure for Eviction Actions, Rule 5(d), to conform eviction notice and complaint procedures to a provision in the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which is applicable to certain federally assisted dwellings and properties, and has been for over three years and nine months as of the date of the Petition. The amendment to Rule 5(d) as articulated in the Petition will ensure due process of law for eviction defendants who rent homes covered by the CARES Act. In support of this Petition, Petitioners state the following:

I. Statement of Interest

CLS, DNA, and SALA (collectively “legal services”) are federally-funded civil legal services law firms that represent low-income Arizonans. Together, CLS, DNA, and SALA deliver free, direct legal services statewide to low-income Arizonans in a variety of priority civil practice areas affecting their most basic life needs and their most basic legal rights, including eviction litigation and other civil cases affecting Arizonans’ housing stability, and the health and safety of their homes.

MIJ is a non-profit organization established to advocate and to litigate on behalf of low-income and other vulnerable Arizonans statewide. MIJ works

1 closely with the three federally funded legal services law firms, other legal
2 advocacy organizations, and community groups on a variety of systemic poverty
3 law and public interest issues, including ensuring that all Arizonans facing eviction
4 have a chance at justice and equal access to the legal system.
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6 **II. Background and Purpose of the Proposed Rule Amendment**

7
8 The Rules of Procedure for Eviction Actions (“RPEA”) “govern the
9 procedure in the superior courts and justice courts involving forcible and special
10 detainer actions, which are jointly referred to in these rules as ‘eviction actions.’”¹
11 This Petition focuses on amending the requirements set forth in RPEA 5(d) to
12 include the notice and procedure requirements in eviction actions filed to recover
13 possession of properties covered by the CARES Act, including primarily properties
14 whose owners benefit from participation in various federal mortgage, housing, and
15 rent subsidy programs.
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19 RPEA 5(d) generally sets forth requirements safeguarding fundamental due
20 process rights of eviction defendants, ensuring they have notice of critical legal
21 protections and information relevant to their cases. RPEA 5(d) presently states the
22 following:
23

24 **d. Additional Requirements for Complaint.**

25 (1) If the action is based solely on non-payment of rent,
26 contains a request for monetary damages and involves a
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28 ¹ Rule 1, Rules of Procedure for Eviction Actions.

1 residential property or mobile home space, the complaint
2 must also state that the defendant may contact the
3 plaintiff or plaintiff's attorney and may reinstate the lease
4 agreement and cause the eviction action to be dismissed
5 if, prior to the entry of judgment, the defendant pays all
6 rents due, any reasonable late fees due that are provided
7 for under a written lease agreement, and any court costs
8 and attorney fees the plaintiff has incurred as of the date
9 the payment is made.

10 (2) If the complaint seeks a judgment for reasons
11 permitted by law other than the non payment of rent, the
12 complaint shall state the reason for the termination of the
13 tenancy with specific facts, including the date, place and
14 circumstances of the reason for termination, so the tenant
15 has an opportunity to prepare a defense.

16 (3) A copy of the provisions of any lease agreement and
17 any addendums related to the underlying basis of the
18 eviction action must be served with the complaint.

19 (4) If the action is based on non-payment of rent, a copy
20 of the accounting of charges and payments for the
21 preceding six months must be served with the complaint.

22 As currently constructed, then, RPEA 5(d) ensures that eviction plaintiffs
23 comply with important procedural requirements for eviction actions, and that
24 eviction defendants have access to information necessary to participate equally and
25 fairly in the determinations and resolutions of their possessory and associated
26 rights in eviction actions. The CARES Act includes an important procedural
27 notice requirement that is substantially similar in importance to the four due
28 process rights RPEA 5(d) presently safeguards.

Congress enacted the CARES Act on March 27, 2020, and it became

1 effective immediately.² Relevant to this Petition, a section of the CARES Act, 15
2 U.S.C. § 9058, specifically changed the operation of landlord-tenant law and
3 eviction filing rights and procedures in certain federally covered properties. First,
4 15 U.S.C. § 9058(a) defines the federal housing programs subject to the law and
5 established which rental homes are “covered dwellings” in “covered properties”
6 subject to CARES Act requirements. Second, 15 U.S.C. § 9058(b), imposed
7 temporary eviction filing restrictions on landlords of dwelling units in covered
8 properties for 120 days during the early period of the Coronavirus Disease 2019
9 (“COVID-19”) pandemic and public health emergency. Finally, and most
10 critically for this Petition, 15 U.S.C. § 9058(c), imposes a 30-day pre-eviction
11 notice requirement applicable to eviction actions brought to recover possession of
12 covered dwellings after the expiration of the temporary, 120-day restricted eviction
13 filing period set forth in 15 U.S.C. § 9058(b). Under the plain and unambiguous
14 language of the CARES Act, the 30-day notice requirement in 15 U.S.C. § 9058(c)
15 has applied to all eviction actions filed to recover possession of covered dwellings
16 and properties since the period after the expiration of the temporary eviction filing
17 restrictions on July 24, 2020. The law remains in effect, as the statute includes no
18 expiration date relating to subsection (c).

19 While 15 U.S.C. § 9058(c) plainly imposes a 30-day pre-eviction notice

20 ² See Pub. L. No. 116-136, 134 Stat. 281 (2020), available at
21 <https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf>.

1 requirement, there have been instances of confusion about the law’s applicability
2 in some courts around the country, including some justice courts in Arizona. For
3 example, some lower courts hearing eviction cases have determined that the
4 CARES Act 30-day notice provision is not presently effective, while others have
5 determined that the 30-day notice period need not expire prior to the filing of an
6 eviction action in court.³ However, there is a growing body of decisional authority
7 confirming that the 30-day notice provision in the CARES Act is and remains the
8 law of the United States, and that it requires notice prior to the filing of an eviction
9 action regarding a covered property.⁴

13 The effect of the CARES Act provision in Arizona is to require a notice of
14 30 days, rather than ten (10) or five (5) days,⁵ in eviction actions regarding rental
15 homes in federally covered dwellings and properties, as defined in the CARES
16 Act. In Arizona eviction actions, the proposed rule amendment will change

19 ³ Attorneys at Southern Arizona Legal Aid are presently representing eviction
20 defendants in appeals in Pima County Superior Court regarding the applicability
21 and effects of the CARES Act 30-day notice provision in eviction actions in
22 Arizona. One of the issues in SALA’s appeals regards a Pima County justice
23 court’s present use and application of provisions of the Arizona Supreme Court’s
24 [Administrative Order No. 2022-14](#), which was only applicable to certain eviction
actions filed on or before March 31, 2022, and did not purport to interpret the full
meaning of the notice provision and requirements in 15 U.S.C. § 9058(c).

25 ⁴ See, e.g., *In Re Plaintiff: Arvada Village Gardens LP, v. Garate*, 2023 CO
26 24 (Colo. 2023); *Sherwood Auburn, LLC v. Pinzon*, 531 P.3d 212 (Wash. Ct. App.
2022).

27 ⁵ Arizona law also provides an exceptional route for landlords to file eviction
28 actions with shorter notice, or immediately, in certain limited emergency and
urgent circumstances. See A.R.S. §§ 33-1368(A)(2), 33-1377.

1 nothing. The amendment proposed in this Petition will only affect eviction actions
2 filed to recover possession of rental homes at properties where owners benefit
3 financially and otherwise from participation in various federal housing, mortgage,
4 and rent subsidy programs.

5
6 While the CARES Act notice requirement is effective regardless of the
7 RPEA amendment proposed in the Petition, Petitioners advance this proposal to
8 harmonize Arizona's rule-based procedural safeguards for eviction actions with
9 applicable federal law, as well as to promote certainty and transparency regarding
10 the applicability of 15 U.S.C. § 9058(c) to rental homes in properties covered by
11 the CARES Act throughout Arizona. For the above-stated reasons, Petitioners
12 request changes to the language of Rule 5(d) of the RPEA to ensure compliance
13 with the CARES Act by landlords filing eviction actions regarding properties and
14 dwellings to which the law applies.

15 **III. Proposed Rule Amendment**

16 Petitioners propose amending RPEA 5(d) to add an additional procedural
17 safeguard – similar and analogous to the requirements in the existing rule – to
18 clarify existing law and to ensure due process for eviction defendants who live in
19 homes covered by the CARES Act. Below are Petitioners' proposed amendments
20 to RPEA 5(d), adding a new subparagraph (5), with new language in bold and
21 italics:
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1 **d. Additional Requirements for Complaint.**

2 (1) If the action is based solely on non-payment of rent,
3 contains a request for monetary damages and involves a
4 residential property or mobile home space, the complaint
5 must also state that the defendant may contact the
6 plaintiff or plaintiff's attorney and may reinstate the lease
7 agreement and cause the eviction action to be dismissed
8 if, prior to the entry of judgment, the defendant pays all
9 rents due, any reasonable late fees due that are provided
10 for under a written lease agreement, and any court costs
11 and attorney fees the plaintiff has incurred as of the date
12 the payment is made.

13 (2) If the complaint seeks a judgment for reasons
14 permitted by law other than the non payment of rent, the
15 complaint shall state the reason for the termination of the
16 tenancy with specific facts, including the date, place and
17 circumstances of the reason for termination, so the tenant
18 has an opportunity to prepare a defense.

19 (3) A copy of the provisions of any lease agreement and
20 any addendums related to the underlying basis of the
21 eviction action must be served with the complaint.

22 (4) If the action is based on non-payment of rent, a copy
23 of the accounting of charges and payments for the
24 preceding six months must be served with the complaint.

25 (5) *If the action involves a residential property, the*
26 *complaint must contain or be accompanied by a*
27 *declaration verifying that the plaintiff has provided the*
28 *defendant with a notice to vacate at least 30 days prior*
 to requiring the defendant to vacate the dwelling unit
 with the filing of the complaint, as mandated by the
 Coronavirus Aid, Relief, and Economic Security
 ("CARES") Act, or that the dwelling from which the
 plaintiff seeks to evict the defendant is not located on or
 in a "covered property," as defined in the CARES Act.

 (a) *The declaration must include a complete*

1 *statement of facts to verify compliance with the*
2 *CARES Act or the inapplicability of the CARES*
3 *Act to the dwelling unit at issue in the eviction*
4 *action.*

5 *(b) The court shall dismiss a case filed without*
6 *the declaration required by this provision.*

7 Petitioners' proposed amendment to RPEA 5(d) is modeled after a similar
8 amendment to the Vermont Rules of Civil Procedure, adopted in 2022.⁶
9 Petitioners propose adding a comment or Appendix to RPEA 5 specifying which
10 federally subsidized housing assistance and mortgage programs are covered by the
11 CARES Act, 15 U.S.C. § 9058(a)(2).⁷

13 **IV. Explanation of Need for Proposed Rule**

14
15 Eviction actions are statutory civil actions, the basic procedures for which
16 are established in A.R.S. §§ 12-1171 through 12-1183. Plaintiffs in eviction
17 actions almost universally seek both monetary relief and possessory relief, utilizing
18 justice courts as vehicles to navigate a summary statutory procedure that is fast
19 compared to nearly all other civil litigation. Plaintiffs have the burden of proof on
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22 ⁶ See Rule 9.2, Vermont Rules of Civil Procedure; Order Promulgating
23 Addition of Rules 9.2 and 9.3 to the Vermont Rules of Civil Procedure,
24 https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATED_VRCP%209.2-9.3--STAMPED.pdf.

25 ⁷ The National Housing Law Project has published a memorandum including
26 a detailed explanation of the federal mortgage and housing programs that make a
27 dwelling unit a “covered dwelling” in a “covered property” to which the CARES
28 Act applies. See *Enforcing the CARES Act 30-Day Eviction Notice Requirement*,
Feb. 7, 2023, <https://www.nhlp.org/wp-content/uploads/2023.02.03-Enforcing-the-CARES-Act-30-Notice-.pdf>.

1 the CARES Act issues, as they do on other issues in an eviction action.⁸
2 Defendants in eviction actions in justice courts around Arizona face the prospect of
3 judgments that can result in their forced removal from their homes as well as their
4 obligation to pay money debts, subject to legal collection actions.
5

6 Tenants have a property interest in their rental homes.⁹ Eviction
7 proceedings that deprive tenants of their possession of their homes must comply
8 with the due process requirements of the Fourteenth Amendment to the United
9 States Constitution.¹⁰ The Supreme Court of the United States has long recognized
10 the importance of pre-eviction notice requirements in federally assisted housing
11 programs.¹¹ And, since Arizona's territorial period, the Arizona Supreme Court
12 has mandated strict compliance with procedural safeguards in summary actions for
13 possession of real property.¹²
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17 RPEA 5(d) builds upon tenants' foundational property interests and rights by
18 providing core procedural safeguards for Arizona tenants facing eviction from their
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21 ⁸ *Montano v. Luff*, 250 Ariz. 401, 405 ¶ 12, 480 P.3d 669, 673 (Ariz. App.
22 2020); *Harvey v. Aubrey*, 53 Ariz. 210, 213, 87 P.2d 482 (1939)

23 ⁹ *Greene v. Lindsey*, 456 U.S. 444, 450-52 (1982); *see also Foundation*
24 *Development Corporation v. Loehmann's*, 788 P.2d 1189, 1192-93, 163 Ariz. 438,
25 441-42 (1990) (recognizing common law right of tenants' property interests in
rental homes).

26 ¹⁰ *Greene v. Lindsey*, 456 U.S. at 455-56.

27 ¹¹ *See, e.g., Thorpe v. Housing Auth. of the City of Durham*, 393 U.S. 268
(1969); *Thorpe v. Housing Auth. of the City of Durham*, 386 U.S. 670 (1967).

28 ¹² *Tweed v. Guild*, 11 P. 753, 2 Ariz. 207 (Ariz. 1886).

1 homes, ensuring that they receive due process of law and that eviction plaintiffs
2 comply with important requirements of the law in the process of filing their cases.
3
4 The plain and unambiguous language imposing the requirements in RPEA 5(d)
5 evinces an intent to ensure that eviction defendants understand important statutory
6 rights about reinstating their lease agreements, the factual bases for the cases they
7 face, the legal provisions governing the disputes in their cases, and even the
8 financial accounting of what they owe in the over 90 percent of eviction actions
9 alleging tenants' failure to pay rent.
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12 The 30-day pre-eviction notice requirement found in the CARES Act, 15
13 U.S.C. § 9058(c), is a procedural safeguard that RPEA 5(d) should include. Here
14 is what the federal statutory provision says:
15

16 (c) Notice

17 The lessor of a covered dwelling unit—

- 18 (1) may not require the tenant to vacate the covered dwelling unit
19 before the date that is 30 days after the date on which the lessor
20 provides the tenant with a notice to vacate; and
21 (2) may not issue a notice to vacate under paragraph (1) until after
22 the expiration of the period described in subsection (b).

23 While the CARES Act requires pre-eviction notice of 30 days, Arizona law
24 generally requires a landlord to provide a five- or ten-day notice to a tenant based
25 upon alleged material noncompliance with various non-rent terms in a rental
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1 agreement before filing an eviction action.¹³ A landlord alleging a tenant's failure
2 to pay rent must provide a five-day notice before filing an eviction action.¹⁴ The
3 CARES Act commands that a lessor of a covered dwelling unit "may not require
4 the tenant to vacate the covered dwelling unit before the date that is 30 days after
5 the date on which the lessor provides the tenant with a notice to vacate."¹⁵ Under
6 Arizona law, the manner of "requiring the tenant to vacate" rental premises is the
7 landlord's institution of a special detainer action under A.R.S. § 33-1377.¹⁶ This
8 means that a landlord cannot file an eviction action concerning a property covered
9 by the CARES Act until a 30-day pre-filing notice period has expired.

13 Giving effect to 15 U.S.C. § 9058(c) necessarily requires modification to the
14 general pre-filing notice requirements of Arizona law in certain cases, as the
15 CARES Act imposes a longer notice period than previously required for covered
16 properties. But, to benefit from the enhanced federal 30-day notice requirement, a
17 tenant has to know they live in a rental home subject to the CARES Act.

20 Under the CARES Act, a "covered dwelling" is a dwelling occupied by a
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23 ¹³ 33 A.R.S. § 33-1368(A).

24 ¹⁴ 33 A.R.S. § 33-1368(B).

25 ¹⁵ 15 U.S.C. § 9058 (c)(1).

26 ¹⁶ Under A.R.S. § 33-1377, "Special detainer actions shall be instituted for
27 remedies prescribed in section 33-1368." No matter the cause of action, A.R.S. §
28 33-1368(A) and (B) plainly establish that a special detainer action is the manner by
which a landlord may terminate a rental agreement and require a tenant to vacate
rental premises.

1 tenant on or in a “covered property,”¹⁷ defined by cross-reference to the broad
2 swath of properties participating in or subject to federally subsidized housing
3 programs to which the Violence Against Women Act applies,¹⁸ rural housing
4 voucher subsidy programs, or various federally backed mortgage loans and multi-
5 family housing financing agreements.¹⁹ While the National Low Income Housing
6 Coalition made an effort in 2020 to develop and to maintain a searchable database
7 of CARES Act-covered properties, the database is no longer active.²⁰ Even when
8 the database was available, it was not perfectly accurate or comprehensive, since
9 information about property owners’ federal mortgage and housing program
10 participation is not readily available in a centralized location. In many cases, the
11 information is not publicly available at all. As a result, since the inception of the
12 CARES Act, tenants have experienced a significant information deficiency in their
13 ability to know or to understand whether the CARES Act requirements apply to
14 their rental agreements. And, as stated above, eviction plaintiffs have the burden
15 of proof on this issue.

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22 ¹⁷ 15 U.S.C. § 9058 (a)(1).

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24 ¹⁸ United States Department of Housing and Urban Development (HUD), *Your*
25 *Rights Under the Violence Against Women Act (VAWA): How to File a Complaint,*
26 *Coverage,* and *Protections,*
https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA.

27 ¹⁹ 15 U.S.C. § 9058(a)(1), (2), (4), and (5).

28 ²⁰ National Low Income Housing Coalition, CARES Act (2020) Database
<https://nlihc.org/cares-act> (last visited Jan. 9, 2024).

1 RPEA 5(d) represents one of Arizona’s most important due process
2 protections for eviction defendants. The rule requires eviction plaintiffs to be
3 transparent in their disclosure of case-relevant information to eviction defendants.
4 However, the current version of RPEA 5(d) is incomplete without a provision
5 requiring the eviction plaintiff to disclose whether the property is a “covered
6 property.” Such a required disclosure will help ensure eviction plaintiffs’
7 compliance with the CARES Act 30-day notice provision, along with the other
8 important compliance measures the rule presently includes. The CARES Act
9 notice provision uniquely protects the rights of low-income and other vulnerable
10 eviction defendants who rent homes in federally assisted properties owned by
11 businesses and individuals receiving various federal benefits through mortgage
12 financing and housing program participation. Eviction defendants living in
13 properties whose owners receive federal benefits implicating the CARES Act face
14 heightened risk of losing the long-term housing stability provided by the key
15 property interests at stake in the eviction actions they face, *i.e.*, both [1] possession
16 of their homes, and [2] the housing affordability and availability made possible by
17 the various federal programs subject to the CARES Act.
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24 Adding further context to the problem presented by the currently effective
25 language of RPEA 5(d), in most eviction actions, the defendants are tenants who
26 are unrepresented by legal counsel. MIJ published two studies on eviction
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1 practices and trends in Maricopa County, the first in 2005²¹ and the second in
2 2020.²² In the 2020 report, MIJ reported that out of 1,097 cases observed, 94% of
3 landlords were represented by an attorney in court, while only 2 tenants were
4 represented by an attorney.
5

6 The above data points demonstrate that tenants largely navigate the court
7 system and the eviction process by themselves, without counsel, putting them at a
8 disadvantage compared to landlords who are represented by attorneys skilled in
9 court procedure and experienced in presenting cases in court. Determining
10 whether a rental home is in a “covered property” to which the CARES Act applies
11 is challenging for eviction defendants – even eviction defendants with skilled
12 eviction defense counsel by their sides – since they are not privy to specific details
13 about the nature or origin of their landlords’ mortgage loans or other
14 documentation of participation in federally subsidized housing programs at multi-
15 family properties. As a result, eviction defendants may be completely unaware of
16 their 30-day notice rights under the CARES Act
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21 Petitioners propose the amendment referenced in Section III, above, to
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23 ²¹ William E. Morris Institute for Justice, *Injustice In No Time: The*
24 *Experience of Tenants in Maricopa County Justice Courts*, June 2005,
25 [https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/4-](https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/4-final-eviction-report/file)
[final-eviction-report/file](https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/4-final-eviction-report/file).

26 ²² William E. Morris Institute for Justice, *What’s Justice Got To Do With It?*
27 *The Experience of Tenants in the Maricopa Justice Courts*, May 2020,
28 [https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/47-](https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/47-institute-maricopa-county-justice-courts-eviction-report-5-21-2020/file)
[institute-maricopa-county-justice-courts-eviction-report-5-21-2020/file](https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/47-institute-maricopa-county-justice-courts-eviction-report-5-21-2020/file).

1 address this informational asymmetry with a simple requirement that eviction
2 plaintiffs verify whether the properties at issue in eviction actions are subject to the
3 CARES Act and, if so, that they have provided the required 30-day notice. A
4 version of this practice is already commonplace in some justice courts in Arizona.
5 It is important to implement Petitioners' proposal to promote transparency and to
6 prevent errors in determinations of present possessory rights in eviction actions.
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9 As Petitioners have observed previously, the legal process for eviction
10 actions in Arizona operates in a way that is ripe for systemic error. An eviction
11 action is a statutory cause of action ensuring a fast process for the legal recovery of
12 possession by eviction plaintiffs. Arizona has one of the fastest legal eviction
13 processes in the United States. The process is fast by statutory design, unfolding
14 over a matter of a couple of weeks from the filing of the case to a tenant's forced
15 eviction by a sheriff or constable. Arizona's eviction statutes allow proceedings to
16 be calendared in a matter of days. Eviction defendants only receive a few days'
17 notice of the initial hearing in their cases. Petitioners have observed justice courts
18 hear and dispose of several dozens of cases or more on a single court calendar,
19 with hearings lasting no more than a couple of minutes, at most. Petitioners have
20 observed basic legal mistakes in those cases that would be addressed, or not occur
21 at all, if tenants had access to legal representation.
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27 Many of the federally assisted housing programs covered by the CARES Act
28 exist to promote housing stability for low-income and other vulnerable tenants.

1 The plight of low-income tenants and the effect evictions have on their lives has
2 received national attention in recent years. In 2015, Mathew Desmond, a professor
3 at Princeton published the Pulitzer-Prize-winning book, *Evicted: Poverty and*
4 *Profit in the American City*. Professor Desmond lived in a low-income residential
5 section of Milwaukee for almost two years and observed the intersection of low-
6 income tenants and eviction actions. He documented the resulting loss of shelter
7 and the increased social and economic instability.

8
9 It is well recognized that for low-income persons, an eviction action may
10 threaten their only means of shelter.²³ The inability to find other housing on short
11 notice can lead to the disruption of children's education, interruption of
12 employment, dislocation from critical health care providers, loss of personal
13 belongings, and homelessness.²⁴ In addition, the eviction process leads to
14 monetary judgments that make it difficult for tenants to secure new rental housing.
15 Thus, the consequences of eviction cases raise the stakes for tenants, especially
16 low-income tenants, who often lack back-up financial resources and are part of the
17 63% of American consumers with less than one month's income in emergency
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25 ²³ Chester Hartman and David Robinson, *Evictions: The Hidden Housing*
26 *Problem*, Housing Policy Debate, Vol. 14, Issue 4 (2003),
https://prprac.org/pdf/evictions_the_hidden_housing_problem.pdf.

27 ²⁴ See, e.g., National Law Center on Homelessness & Poverty, *Protect*
28 *Tenants, Prevent Homelessness* at 15-18 (Mar. 2018), <https://homelesslaw.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>.

1 savings.²⁵ The result of an eviction may be that a family is living in a car, or in a
2 tent in an encampment. These consequences are not uncommon in Arizona, as the
3 state faces housing affordability and availability crises that continue to intensify,
4 unabated.

6 The stakes are especially high for Arizona tenants who face eviction from
7 federally assisted properties covered by the CARES Act. Eviction from a federally
8 assisted property limits, and sometimes precludes, a tenant's ability to secure other
9 affordable housing at a different federally assisted property or in the private
10 market.

13 Legal services attorneys have encountered problems created by the lack of
14 readily available information about eviction plaintiffs' participation in federal
15 mortgage, housing, and rent subsidy programs subject to the CARES Act
16 requirements. Legal services attorneys have observed cases in which eviction
17 defendants have been unaware of their federally prescribed 30-day notice rights
18 under 15 U.S.C. § 9058(c). Legal services attorneys have observed other cases in
19 which eviction defendants were unaware that they lived in CARES Act-covered
20 properties. In these cases, but for the involvement of skilled legal services eviction
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25 ²⁵ Caroline Ratcliffe, Brianna Middlewood, Melissa Knoll, Misha Davies, and
26 Grant Guillory, *Emergency Savings and Financial Security Insights from the*
27 *Making Ends Meet Survey and Consumer Credit Panel*, CFPB Office of Research
28 Data Point No. 2022-01 (Mar. 2022),
[https://files.consumerfinance.gov/f/documents/cfpb_mem_emergency-savings-
financial-security_report_2022-3.pdf](https://files.consumerfinance.gov/f/documents/cfpb_mem_emergency-savings-financial-security_report_2022-3.pdf).

1 defense counsel, eviction defendants may have faced erroneous determinations of
2 their possessory rights and eviction from their homes, along with associated
3 family, financial, health, and other collateral consequences.

4
5 Amending RPEA 5(d) to include a CARES Act compliance verification
6 requirement will promote transparency and due process in eviction actions for
7 eviction defendants who may be unaware that they live in a CARES Act-covered
8 property and the legal notice protections they have. RPEA 5(d) exists to mitigate
9 informational asymmetries serving as systemic and structural barriers to
10 meaningful participation in the legal system for eviction defendants in justice
11 courts around Arizona. The CARES Act notice requirement is an important due
12 process safeguard to include in RPEA 5(d). For all of the above reasons, the Court
13 should adopt Petitioners' proposed rule amendments to RPEA 5(d) in the interests
14 of justice and to ensure fairness for Arizonans facing eviction actions in justice
15 courts statewide.

16 **V. Conclusion**

17
18 Petitioners submit this Petition to ensure compliance with CARES Act
19 procedural notice safeguard applicable to certain federally assisted rental properties
20 in Arizona. Petitioners request that the Court approve this Petition and implement
21 the Petition's recommendations to amend RPEA 5(d) to ensure eviction plaintiffs'
22 compliance with the CARES Act, and to ensure due process of law to eviction
23 defendants residing in CARES Act-covered homes.

1 Respectfully submitted this 10th day of January 2024.

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25 this 10th day of January 2024.

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