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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:	) Supreme Court No. R-24-0022
	)
PETITION TO AMEND RULE	) COMMENT IN SUPPORT OF
11(b)(1), RULES OF PROCEDURE	) PETITION TO AMEND RULE
FOR EVICTION ACTIONS	) 11(b)(1), RULES OF PROCEDURE
	) FOR EVICTION ACTIONS
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Pursuant to Arizona Rule of the Supreme Court 28, the Arizona Attorney General’s Office (“AGO”) respectfully submits the following comment supporting Petition No. R-24-0022 (“Petition”).

I. Introduction

The AGO supports the Petition filed by Community Legal Services, DNA People’s Legal Services, Southern Arizona Legal Aid, and the William E. Morris

Institute for Justice (collectively, “Petitioners”) to amend Rule 11(b)(1) of the Rules of Procedure for Eviction Actions (the “Rule”). Petitioners seek to implement a one-year pilot project to assess and evaluate the impact of implementing a re-call procedure in eviction actions on the courts, parties, and default judgments.

II. Argument

Petitioners’ proposed amendment would serve to promote access to justice for Arizonans and make the eviction process more accessible and equitable for all parties. Individuals facing eviction from their home are confronted with many obstacles, one of which includes navigating the eviction court process, oftentimes without the guidance of counsel. Additionally, those who are facing an eviction action are confronted with an unfamiliar court process while coordinating work schedule changes and absences at work for the hearing; searching for legal assistance; looking for alternative living arrangements, including rapid rehousing; managing allocation of resources for moving, payment of rent, and childcare; transferring internet or other utility services; and coordinating childcare.

The number of challenges that tenants face, while also familiarizing themselves with the eviction process, is daunting. These challenges also lead to the potential of a missed court appearance. For these individuals, remote appearance is beneficial, but does not alone ensure they have the ability to appear and present

their argument to the court. Petitioners' pilot project would consider whether a modified process in an eviction action—providing an additional opportunity for parties to appear, be heard, and present any defenses or arguments to the judge assigned to their case—would allow judicial efficiency while also ensuring access to justice. Petitioners' pilot project appears to come at an opportune time since default judgments have declined as a result of the court's innovative shift to remote hearings.

Importantly, this temporary change would provide the court with an opportunity to hear all arguments before judgment is entered against the party and before additional court processes must take place. Judgments entered against individuals in eviction proceedings have significant consequences. Critically, these judgments substantially impact individuals' ability to apply for and attain future housing. This additional process would ensure that individuals who experience technical difficulties or are several minutes late to court are not immediately subject to a default judgment, which require time, expertise, and resources to set aside. This modification also encourages and promotes eviction cases being decided on the merits of the claim, rather than default judgment.

The Civil Rights Division of the AGO is tasked with enforcing the Arizona Fair Housing Act and, as a result, receives inquiries and complaints from individuals who are facing eviction, or have already been evicted, from their

housing. These individuals would greatly benefit from increased process and procedures afforded to them during the eviction action proceedings, as well as an increased opportunity to have their case decided on its merits, particularly as the eviction process is expedited and likely daunting to them. Regardless of the outcome, the data from the pilot project could then be used to inform whether the process should or should not be adopted on a permanent basis.

Overall, this proposed amendment to the Rule would increase access to justice by providing increased process in eviction action proceedings, the stakes of which are momentous as it determines whether an individual is allowed to remain in, or alternatively be forcibly removed from, their home.

III. Conclusion

For the reasons outlined above, the AGO supports the Petition, R-24-0022.

RESPECTFULLY SUBMITTED this 30th day of April, 2024

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