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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of

ARIZONA SUPREME COURT RULE  
81

Supreme Court No. R-24-006

**COMMENTS IN SUPPORT OF  
PETITION TO AMEND ARIZONA  
CODE OF JUDICIAL CONDUCT  
RULE 2.6**

1 Pursuant to Rule 28 of the Rules of the Supreme Court, Community Legal  
2 Services (“CLS”), DNA People’s Legal Services (“DNA”), Southern Arizona  
3 Legal Aid (“SALA”), and the William E. Morris Institute for Justice (“MIJ”)  
4 submit these comments in support of the Petition to Amend Arizona Code of  
5 Judicial Conduct Rule 2.6. The Petition, filed by the Honorable Samuel A.  
6 Thumma, as chair of and on behalf of the Arizona Commission on Access to  
7 Justice, asks the Court to add a comment to Rule 2.6 to provide examples of  
8 actions judges may take in ensuring a self-represented litigant’s right to be heard.  
9

10 CLS, DNA, SALA, and MIJ support the Petition.

11 **I. Statement of Interest**

12 CLS, DNA, and SALA are federally funded civil legal services law firms  
13 that represent low-income Arizonans. Together, CLS, DNA, and SALA deliver  
14 free, direct legal services statewide to low-income Arizonans in a variety of  
15 priority civil practice areas affecting Arizonans’ most basic life needs and their  
16 most basic legal rights in the areas of family law, housing, healthcare and other  
17 public benefits, and consumer protection, among other practice areas.

18 MIJ is a non-profit organization established to advocate and to litigate on  
19 behalf of low-income Arizonans on a statewide basis. MIJ works closely with the  
20 three federally funded legal services law firms, other legal advocacy organizations,  
21 and community groups on a variety of systemic poverty law and public interest  
22 issues, including ensuring that economically vulnerable Arizonans have fair and  
23 equal access to economic security, food security, healthcare, housing stability,  
24 public programs and services, the legal system, and the courts.  
25

26 **II. The Proposed Rule Change Will Help Low-Income Arizonans Be Heard  
in Court and Further Access to Justice**

27 CLS, DNA, SALA, and MIJ all represent low-income Arizonans in court  
28 proceedings, but, due to limited resources, are forced to turn away many

1 economically vulnerable litigants in court cases affecting their most basic needs.  
2 Consequently, most low-income litigants in civil proceedings are self-represented  
3 and must navigate the civil legal system, including the eviction process, by  
4 themselves and, thus, are at a disadvantage compared to represented landlords.  
5 This disadvantage is caused by the tenants' lack of financial resources. Indigent  
6 Arizonans have a right to counsel in criminal cases (*Gideon v. Wainwright*, 372  
7 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)) but there is no Arizona right to  
8 counsel for civil defendants. The scales of justice are not balanced when one  
9 litigant is represented and the other is self-represented.  
10

11 The proposed rule change will help ensure that all litigants, especially  
12 persons who cannot afford an attorney or who are unable to have a legal services  
13 attorney advocating for their interests, are able to navigate the legal system and  
14 have a meaningful day in court. The proposed rule change includes a non-  
15 exhaustive list of measures judges can take to assist self-represented litigants in  
16 compliance with Rule 2.6:

- 17 • Liberally construing pleadings;
- 18 • Providing brief information about the proceeding and evidentiary  
19 and foundational requirements;
- 20 • Modifying the traditional order of taking evidence;
- 21 • Attempting to make legal concepts understandable;
- 22 • Explaining the basis for a ruling and making referrals to any  
23 resources available to assist the litigant in preparation for a case.

24 The examples listed above include solutions that may help a self-represented  
25 litigant present their case in court. The proposed change provides clearer guidance  
26 to judicial officers on how to manage proceedings in their courtroom to ensure that  
27 litigants are afforded the right to be heard pursuant to Rule 2.6. If adopted, the  
28 Petition's common sense list of solutions and offerings to self-represented litigants

1 will increase and enhance access to justice in Arizona.

2 **III. Conclusion**

3 For the above-stated reasons, the Court should adopt the proposed rule  
4 change to Rule 2.6 of the Arizona Code of Judicial Conduct. The proposed rule  
5 change clarifies judicial officers' obligations pursuant to Rule 2.6 and will help  
6 guarantee that all litigants are afforded the opportunity to be heard.

7 Respectfully submitted this 30th day of April 2024.

8 COMMUNITY LEGAL SERVICES

9 DNA PEOPLE'S LEGAL SERVICES

10 SOUTHERN ARIZONA LEGAL AID

11 WILLIAM E. MORRIS INSTITUTE FOR  
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13  
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20 COMMUNITY LEGAL SERVICES

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28 Clerk of the Supreme Court of Arizona  
this 30<sup>th</sup> day of April 2024.

By: /s/ Andrew P. Schaffer