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IN THE SUPREME COURT  
STATE OF ARIZONA

**PETITION TO AMEND RULE 15  
OF THE RULES OF PROCEDURE  
FOR EVICTION ACTIONS**

Supreme Court No. R-25-\_\_\_\_\_  
**PETITION**

1 Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona,  
2 Community Legal Services (“CLS”), DNA People’s Legal Services (“DNA”),  
3 Southern Arizona Legal Aid (“SALA”), and the William E. Morris Institute for  
4 Justice (“MIJ”) respectfully petition this Court to amend Rule 15 of the Rules of  
5 Procedure for Eviction Actions to add three additional grounds for relief from  
6 eviction judgments, orders, and proceedings, consistent with Rule 60 of the  
7 Arizona Rules of Civil Procedure. Petitioners also propose adding a provision for  
8 a stay during the three-day decision period for emergency matters provided under  
9 Rule 15.  
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13 The amendments to Rule 15 proposed in this Petition will fully harmonize  
14 the rule with the familiar grounds for relief available under Rule 60 of the Arizona  
15 Rules of Civil Procedure. The proposed amendments will also provide a stay of  
16 judgments, orders, and proceedings during the existing three-day consideration  
17 period for motions constituting emergency matters to minimize irreparable harm  
18 and to maximize judicial efficiency. The proposed amendments will ensure due  
19 process of law for parties to eviction actions who seek relief from eviction  
20 judgments, orders, and proceedings affecting their property interests and rights.  
21 The proposed amendments will also ensure the meaningfulness of post judgment  
22 motions in emergency matters, as defined in the current language of Rule 15 of the  
23 Rules of Procedure for Eviction Actions. In support of this Petition, Petitioners  
24 state the following:  
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1           **I.     Statement of Interest**

2           CLS, DNA, and SALA (collectively “legal services”) are federally funded  
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4 civil legal services law firms that represent low-income Arizonans. Together,  
5 CLS, DNA, and SALA deliver free, direct legal services statewide to low-income  
6 Arizonans in a variety of priority civil practice areas affecting their most basic life  
7  
8 needs and their most basic legal rights, including eviction litigation and other civil  
9 cases affecting Arizonans’ housing stability, and the health and safety of their  
10 homes.  
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12           MIJ is a non-profit organization established to advocate and to litigate on  
13 behalf of low-income and other vulnerable Arizonans statewide. MIJ works  
14 closely with the three federally funded legal services law firms, other legal  
15 advocacy organizations, and community groups on a variety of systemic poverty  
16 law and public interest issues, including ensuring that all Arizonans facing eviction  
17  
18 have a chance at justice and equal access to the legal system.  
19

20           **II.    Background and Purpose of the Proposed Rule Amendment**

21           The Rules of Procedure for Eviction Actions (“RPEA”) “govern the  
22 procedure in the superior courts and justice courts involving forcible and special  
23 detainer actions, which are jointly referred to in these rules as ‘eviction actions.’”<sup>1</sup>  
24  
25 This Petition focuses on amending Rule 15 of the RPEA (“RPEA 15”) to include  
26  
27 additional grounds for relief from judgments and orders in alignment with  
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<sup>1</sup> Rule 1, Rules of Procedure for Eviction Actions.

1 provisions in Rule 60 of the Arizona Rules of Civil Procedure, as well as to  
2 provide direction for brief stays of judgments, orders, and proceedings in  
3 emergency cases.  
4

5 RPEA 15 generally sets forth requirements safeguarding fundamental due  
6 process rights of parties in eviction actions, ensuring they have pathways to relief  
7 from eviction judgments, orders, and proceedings. RPEA 15 states the following:  
8

9 **a. Motions to Set Aside Judgments, Orders, or**  
10 **Proceedings.**

11 Either party may file a motion to set aside a judgment,  
12 order or proceeding on any of the following grounds:

- 13 (1) The court did not have jurisdiction to hear the case;
- 14
- 15 (2) The defendant tendered all amounts due under the  
16 lease agreement prior to a judgment being entered or  
17 made a partial payment under the Arizona Residential  
18 Landlord Tenant Act, A.R.S. §§ 33-1301 to -1381, which  
19 was accepted by the landlord;
- 20
- 21 (3) A party did not receive proper notice or was not  
22 properly served;
- 23
- 24 (4) Mistake, inadvertence, surprise, or excusable neglect;
- 25
- 26 (5) Newly discovered material facts exist that could  
27 establish a defense to an allegation;
- 28
- 29 (6) A party is subject to protection under bankruptcy  
30 laws;
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- 32 (7) A party is requesting relief under the  
33 Servicemembers' Civil Relief Act;
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- 35 (8) The parties have stipulated to set aside the judgment;

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(9) The judgment is contrary to the law; or

(10) Fraud, misrepresentation, or other misconduct of an adverse party.

The motion shall be filed within a reasonable time, and, for reasons (2), (4), and (5), not more than 60 days after the judgment or order was entered.

**b.** Clerical errors may be corrected by the court with or without notice to the parties.

**c.** A post judgment motion affecting possession of the property shall be treated as an emergency matter and decided within three court days.

**d.** Where a post judgment motion does not affect possession of property, the other party may file a response within 10 court days of service of the motion. The moving party may then file a reply within 5 court days of service of the response.

As currently constructed, RPEA 15 ensures that parties in eviction actions have access to relief from judgments, orders, and proceedings based on ten enumerated grounds. Notably, however, the current rule omits three grounds for relief from judgments, orders, and proceedings available to litigants in civil cases subject to Rule 60 of the Arizona Rules of Civil Procedure: [1] a ground for relief from void judgments; [2] a ground for relief when a judgment has been satisfied, released, or discharged; or when a judgment is based on an earlier judgment that has been reversed or vacated; or when applying a judgment prospectively is no longer equitable; and [3] a catch-all provision for any other reason justifying relief

1 from a judgment, order, or proceeding.

2           Additionally, RPEA 15(c) designates certain matters as emergencies and  
3  
4 requires a decision “within three court days” on those matters. However, RPEA  
5 15(c) fails to provide specific direction regarding stays of judgments, orders, and  
6 proceedings to protect the parties’ rights and interests in emergency matters while  
7  
8 a post judgment motion is pending.

9           **III. Proposed Rule Amendment**

10           Petitioners propose amending RPEA 15 to include the three grounds for  
11 relief included under Rule 60 of the Arizona Rules of Civil Procedure not presently  
12 incorporated into RPEA 15. Petitioners additionally propose adding a provision  
13 directing a stay of eviction judgments, orders, and proceedings when a party files a  
14 motion for relief under the rule in matters presently designated as emergency  
15 matters under the existing rule language. Petitioners’ proposed amendments would  
16 help protect due process for parties in eviction actions by ensuring the  
17 meaningfulness of requests for relief under the rule through the provision of brief  
18 stays pending decisions on emergency motions during the three-day decision  
19 period mandated by the rule. Below are Petitioners’ proposed amendments to  
20 RPEA 15, with new and removed language in bold and strikethrough, respectively:  
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25           **a. Motions to Set Aside Judgments, Orders, or**  
26 **Proceedings.**

27           Either party may file a motion to set aside a judgment,  
28 order or proceeding on any of the following grounds:

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(1) The court did not have jurisdiction to hear the case;

(2) The defendant tendered all amounts due under the lease agreement prior to a judgment being entered or made a partial payment under the Arizona Residential Landlord Tenant Act, A.R.S. §§ 33-1301 to -1381, which was accepted by the landlord;

(3) A party did not receive proper notice or was not properly served;

(4) Mistake, inadvertence, surprise, or excusable neglect;

(5) Newly discovered material facts exist that could establish a defense to an allegation;

(6) A party is subject to protection under bankruptcy laws;

(7) A party is requesting relief under the Servicemembers' Civil Relief Act;

(8) The parties have stipulated to set aside the judgment;

(9) The judgment is contrary to the law; ~~or~~

(10) Fraud, misrepresentation, or other misconduct of an adverse party-;

**(11) The judgment is void;**

**(12) The judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or**

**(13) Any other reason justifying relief.**

The motion shall be filed within a reasonable time, and, for reasons (2), (4), and (5), not more than 60 days after

1 the judgment or order was entered.

2 **b.** Clerical errors may be corrected by the court with or  
3 without notice to the parties.

4 **c.** A post judgment motion affecting possession of the  
5 property shall be treated as an emergency matter and  
6 decided within three court days. **The court shall stay an  
7 eviction judgment, order, and proceeding upon the  
8 filing of a post judgment motion affecting possession,  
9 pending the court's decision on the motion within  
10 three court days.**

11 **d.** Where a post judgment motion does not affect  
12 possession of property, the other party may file a  
13 response within 10 court days of service of the motion.  
14 The moving party may then file a reply within 5 court  
15 days of service of the response.

#### 14 **IV. Explanation of Need for Proposed Rule**

15 Eviction actions are statutory civil actions, the basic procedures for which  
16 are established in A.R.S. §§ 12-1171 through 12-1183, and A.R.S. §§ 33-1368, 33-  
17 1371, 33-1375, 33-1377, and 33-1379. Arizona's statutory eviction laws provide a  
18 fast process for determining the parties' legal rights regarding possession of real  
19 property. Specifically, the legal eviction process in Arizona spans two to three  
20 weeks, on average, from a landlord's delivery of a pre-filing notice to quit to a  
21 tenant's forced eviction by a sheriff or constable.

22 Arizona's eviction process does not provide parties in eviction litigation the  
23 same protections against errors in judgments, orders, and proceedings that are  
24 available in other civil legal matters. While Petitioners acknowledge that there are  
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1 different rules of procedure for eviction matters and other civil matters, there is no  
2 reasonable basis not to extend all of the protections and safeguards available in  
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4 Ariz. R. Civ. P. 60 for relief from judgments to RPEA 15. Petitioners advance this  
5 Petition to provide relief from, or protection against, errors that may inevitably  
6 arise due under the incredibly fast legal timeline for evictions the governing  
7 statutes establish.  
8

9 Arizona's Residential Landlord and Tenant Act allows eviction proceedings  
10 to be calendared in a matter of days after filing.<sup>2</sup> Consequently, eviction  
11 defendants only receive a few days' notice of the initial hearing in their cases.<sup>3</sup>  
12 Some of Arizona's higher-volume justice courts hear and dispose of several dozens  
13 of cases or more on a single court calendar, with hearings lasting no more than a  
14 couple of minutes, at most.<sup>4</sup> Orders for dismissal or judgment take effect  
15 immediately, with writs available to eviction plaintiffs as soon as five days from  
16 the entry of judgment.<sup>5</sup>  
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20 In the legal environment of eviction litigation, especially given the high  
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23 <sup>2</sup> A.R.S. § 33-1301 *et seq.*

24 <sup>3</sup> A.R.S. §§ 33-1368; 33-1377.

25 <sup>4</sup> William E. Morris Institute for Justice, *What's Justice Got To Do With It?*  
26 *The Experience of Tenants in the Maricopa Justice Courts*, May 2020,  
27 [https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/47-  
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).

28 <sup>5</sup> A.R.S. § 33-12-1178(c).

1 volume of eviction filings statewide,<sup>6</sup> it is inevitable that parties may face  
2 judgments, orders, and proceedings to which they have good faith objections and  
3 grounds to challenge. RPEA 15(c) acknowledges the emergent nature of such  
4 matters, when one party or another files a post judgment motion affecting  
5 possession of the property at issue in the case. Providing a concurrent stay during  
6 the rule’s three-day consideration and decision period ensures that the party  
7 seeking relief does not face irreparable harm while the court considers the motion.  
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10 For example, if a party seeks relief from an eviction judgment claiming a  
11 present right of possession, the court has three days to decide the motion as an  
12 emergency matter under the existing rule language. Pausing enforcement of the  
13 judgment during this emergency three-day consideration and decision period is  
14 reasonable and practical. Should the court ultimately grant the moving party relief  
15 from the eviction judgment in question in such a case, the concurrent stay of the  
16 judgment will prevent the erroneous deprivation of a property interest prior to the  
17 court’s decision. Should the court ultimately deny the moving party the requested  
18 relief, the non-moving party will experience only a minimal pause in enforcing the  
19 judgment and may recover prevailing party costs pursuant to RPEA 13(c)(2)(H)  
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25 <sup>6</sup> Eviction Lab, Eviction Tracking: Phoenix, Arizona (data updated Dec. 1,  
26 2024), <https://evictionlab.org/eviction-tracking/phoenix-az/>; Kwan, Alania, *City of Phoenix Approves \$1.2M to Provide Free Legal Help for Evictions*, AZFamily  
27 (Dec. 12, 2024), <https://www.azfamily.com/2024/12/12/city-phoenix-approves-12m-provide-free-legal-help-evictions/>.  
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1 and A.R.S. § 12-341, addressing concerns with the effect of the stay on the party's  
2 right to enforce the eviction judgment during the emergency decision period.  
3  
4 Accordingly, then, the proposed stay reasonably safeguards the property rights of a  
5 party seeking relief under the rule, with only a minimal burden on the other party  
6 in the eviction action, while maximizing judicial efficiency and promoting  
7 practicality in the parties' conduct pending the court's decision on an emergency  
8 matter.  
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10 **V. Conclusion**  
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12 Petitioners submit this Petition to ensure pathways to relief for parties  
13 affected by eviction judgments, orders, and proceedings, consistent with the  
14 pathways available to parties in other civil cases, as well as the meaningfulness of  
15 post judgment motions for relief in emergency matters. Petitioners request that the  
16 Court approve this Petition and implement the Petition's recommendations to  
17 amend RPEA 15 to ensure eviction parties' appropriate access to relief and due  
18 process of law.  
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21 Respectfully submitted this 10th day of January 2025.  
22

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Original electronically filed with the  
Clerk of the Supreme Court of Arizona  
this 10th day of January 2025.

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