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IN THE SUPREME COURT
STATE OF ARIZONA

**PETITION TO AMEND RULES
11(d) and 18(d), ARIZONA RULES
OF PROCEDURE FOR EVICTION
ACTIONS**

Supreme Court No. R-25-_____

PETITION

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”) (collectively “legal services”), and the William E. Morris
4 Institute for Justice (“MIJ”) respectfully petition this Court to amend the Rules of
5 Procedure for Eviction Actions (“RPEA”), Rule 11(d) and Rule 18(d). Petitioners
6 propose that the RPEA be amended to have a clearer definition of “good cause”
7 that encourages parties to request - and courts to grant - continuances to parties
8 when needed.
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12 In support of this Petition, Petitioners state the following:

13 **I. Statement of Interest**

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

2 **II. Purpose of the Proposed Rule Amendment**

3 The rules provide the following directions on requests for continuances:
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5 **Rule 11(d) Continuances.**

6 Whenever possible, the trial should be held on the initial return date.
7 *The court may order the continuance* of a trial date by up to three
8 court days in justice court or ten days in superior court on the request
9 of a party *for good cause shown* or to accommodate the demands of
10 the court’s calendar, but the court nevertheless shall give priority to
11 hearing and resolving alleged “immediate and irreparable” evictions.
12 No continuance of more than three court days in justice courts or ten
13 days in superior courts may be ordered unless both parties are in
14 agreement. [emphasis added].

13 **Rule 18(d) Definitions.**

14 “Good cause” shall mean a stated, substantial reason, the
15 accommodation of which will serve the interests of fairness and
16 justice, without also causing a significant delay or harm to another
17 party. Good cause may include relieving a person from the
18 consequences of mistake or inadvertence, but not from simple neglect.

18 The rules permit a court to grant requests for continuances for “good cause
19 shown.” However, the definition of “good cause” as stated in Rule 18(d) does not
20 encourage courts to grant requests for continuances unless there is a “stated,
21 substantial reason,” a standard that is not specifically defined in the rule. The
22 definition’s use of the term *substantial* – which means “considerable in quantity”
23 or “significantly great”¹ – sets a high bar for when a court may grant a
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¹ Merriam Webster Dictionary, Definition of “Substantial,” (last visited Jan. 2,
2025), <https://www.merriam-webster.com/dictionary/substantial>.

1 continuance. Consequently, not many parties in eviction matters utilize what
2 should be a common litigation mechanism to seek necessary continuances of
3 eviction proceedings. Further, the rules do not explain or provide examples of
4 what constitutes a “substantial reason,” adding confusion and inconsistency to the
5 process. The proposed rule change seeks to clarify when continuances can be
6 requested and granted.
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9 **III. Proposed Rule Amendment**

10 Petitioners propose the following rule amendment, with the proposed
11 changes indicated in bold and strikethrough:
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13 **Rule 11(d) Continuances.**

14 Whenever possible, the trial should be held on the initial return date.
15 The court ~~may~~ **shall** order the continuance of a trial date by up to
16 three court days in justice court or ten days in superior court on the
17 request of a party for good cause shown or to accommodate the
18 demands of the court’s calendar, but the court nevertheless shall give
19 priority to hearing and resolving alleged “immediate and irreparable”
20 evictions. No continuance of more than three court days in justice
21 courts or ten days in superior courts may be ordered unless both
22 parties are in agreement.

23 **Rule 18(d) Definitions.**

24 “Good cause” shall mean a stated, ~~substantial~~ reason, the
25 accommodation of which will serve the interests of fairness and
26 justice, ~~without also causing a significant delay or harm to another~~
27 ~~party.~~ Good cause may include relieving a **person party** from the
28 consequences of mistake, ~~or~~ inadvertence, ~~but not from simple~~
~~neglect.~~ **or excusable neglect, including any circumstances beyond**
the party’s reasonable control. Examples of “good cause” that
may require a continuance include but are not limited to the
following:

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- (i) A health or medical emergency;**
 - (ii) A need to request and obtain a reasonable accommodation under the Americans with Disabilities Act;**
 - (iii) An employment scheduling conflict;**
 - (iv) An obligation related to past or present military service;**
 - (v) A lack of access to child care;**
 - (vi) A need to gather evidence relevant to the eviction action that the party was unable to obtain before the first eviction hearing ;**
 - (vii) The unavailability of a material witness to appear at a scheduled hearing or trial; or**
 - (viii) A good faith belief that a rent default will be cured during the period of the continuance.**

11 The proposed amendment makes a continuance mandatory, not
12 discretionary, when the “good cause” standard is met.
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14 The proposed amendment also provides more specific definitional meaning
15 to the term “good cause.” The proposed amendment borrows language from Rule
16 15(a)(4) of the Arizona Rules of Procedure for Eviction Actions and Rule 60(b)(1)
17 of the Federal and Arizona Rules of Civil Procedure, which provide that courts
18 may provide relief from a judgment, order or proceeding for “mistake,
19 inadvertence, surprise, or excusable neglect.”
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22 The proposed amendment to Rule 18(d) also eliminates language concerning
23 restrictions on the timing of the continuance because Rule 11(d) already states that,
24 “No continuance of more than three court days in justice courts or ten days in
25 superior courts may be ordered unless both parties are in agreement.”
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28 Finally, the proposed rule amendment enumerates some examples of

1 common bases that would meet the “good cause” standard, including health or
2 medical emergencies, a need to request and obtain a reasonable accommodation
3 under the Americans with Disabilities Act, employment scheduling conflicts,
4 issues affecting military servicemembers and veterans, lack of access to child care,
5 a need to gather relevant evidence, the lack of availability of a material witness,
6 and a good faith belief that a rent default may be cured during the period of the
7 continuance.
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10 **IV. Explanation of Need for the Proposed Rule Amendment**

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12 Arizona’s continuance request and approval rate in eviction matters is low,
13 especially for defendants. MIJ published two studies on eviction practices and
14 trends in Maricopa County, the first in 2005² and the second in 2020.³ In the 2020
15 report, MIJ reported that out of 1,097 cases observed 17 plaintiffs requested
16 continuances and 16 of those requests were approved. Similarly, only 11
17 defendants requested continuances, 8 of which were approved. The proposed rule
18 change would more clearly define “good cause,” which would encourage parties to
19 request and courts to grant more continuances.
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23 ² William E. Morris Institute for Justice, *Injustice In No Time: The Experience*
24 *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)
26 [final-eviction-report/file](https://morrisinstituteforjustice.org/helpful-information/landlord-and-tenant/4-final-eviction-report/file).

27 ³ William E. Morris Institute for Justice, *What’s Justice Got To Do With It?*
28 *The Experience of Tenants in the Maricopa Justice Courts*, May 2020,
[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 A court hearing continuance can provide several benefits both to the parties
2 and to the court. A short delay can provide parties with more time to gather
3 evidence, interview and secure witnesses, or consult with experts. Further, courts
4 that grant continuances may help uphold due process by ensuring that parties have
5 a reasonable opportunity to present their cases. This is especially important in
6 Arizona, which has one of the fastest eviction processes and one of the highest
7 eviction case filing rates in the country.⁴

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11 Continuanes can help ensure the court has complete and accurate
12 information relevant to the issue in a case. For example, SALA recently
13 represented a tenant whose home was determined to be uninhabitable by a third-
14 party inspector. SALA requested a continuance for time to obtain the inspection
15 report and to subpoena the inspector. The request was denied, and the case
16 proceeded without important, relevant information.

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19 Continuanes can also help ensure that parties are able to attend their
20 hearings without enduring great hardship. CLS represented a tenant who appeared
21 for their initial hearing and requested a continuance of the trial date because the
22 tenant's 5-year-old son was scheduled to have surgery on the scheduled date. The
23 request was denied despite the tenant offering proof of the prescheduled surgery.

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26 ⁴ Eviction Lab, Eviction Tracking: Phoenix, Arizona (data updated Dec. 1,
27 2024), <https://evictionlab.org/eviction-tracking/phoenix-az/>; Kwan, Alania, *City of Phoenix Approves \$1.2M to Provide Free Legal Help for Evictions*, AZFamily
28 (Dec. 12, 2024), <https://www.azfamily.com/2024/12/12/city-phoenix-approves-12m-provide-free-legal-help-evictions/>.

1 In another case, a tenant with a disability needed their live-in-caregiver to help
2 them appear at the hearing. The live-in-caregiver was unavailable on the
3 scheduled hearing date and the tenant asked for a continuance so they could attend
4 the hearing. The request was denied.
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6 Continuanes can also allow parties time to reassess their cases and
7 encourage negotiation, saving court time and resources. By allowing parties more
8 time to evaluate their cases and possibly work out agreements, courts can help
9 eliminate harmful judgments on tenants’ records. As legal services and MIJ have
10 discussed in previous rule petitions to the Court, the consequences of an eviction
11 judgment against a tenant are far-reaching.⁵ Judgments can cause economic
12 hardship and financial instability, housing and food insecurity, health issues, and
13 education disruptions.⁶
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17 The proposed rule amendment’s clarification of “good cause” would better
18 inform courts when they must grant requests for continuing an eviction court
19 hearing. By facilitating continuances in appropriate circumstances, the rule change
20 would promote due process by allowing parties time to gather evidence, to prepare
21 to present their claims and defenses, and to obtain legal counsel. In the process,
22 the rule change would promote settlements and resolutions of issues in dispute in
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27 ⁵ See e.g., Supreme Court No. R-24-0023; Supreme Court No. R-24-0022.

28 ⁶ Matthew Desmond, *Evicted: Poverty and Profit in the American City*, Broadway Books (2015).

1 eviction actions.

2 **V. Conclusion**

3 For the above reasons, we respectfully request that the Court approve this
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5 Petition to amend Rule 11(d) and Rule 18(d) of the Arizona Rules of Procedure for
6 Eviction Actions to clarify the definition of “good cause” using language found in
7
8 the Arizona Rules of Procedure for Eviction Actions and in the Federal and
9 Arizona Rules of Civil Procedure.

10 Respectfully submitted this 10th day of January 2025.

11 COMMUNITY LEGAL SERVICES

12 DNA PEOPLE’S LEGAL SERVICES

13 SOUTHERN ARIZONA LEGAL AID

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2 Clerk of the Supreme Court of Arizona
3 this 10th day of January 2025.

4 By: /s/ Andrew P. Schaffer
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