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14264 West Tierra Buena Lane
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-25-0019
PETITION TO AMEND)	
RULE 15)	Public Comment
of the RULES OF PROCEDURE)	
FOR EVICTION ACTIONS)	

BACKGROUND

This comment is filed on behalf of the Justice of the Peace Bench in Maricopa County. These comments were presented at a bench meeting on for comment and were then endorsed by a unanimous vote of our bench on February 12, 2025.

The proposed rule changes purport to do two things: (1) add three additional legal reasons, to the current list of ten, to set aside a residential eviction judgment, and (2) create a bankruptcy style automatic, but temporary, stay of a court’s ability to issue a writ of restitution for any tenant who files a post-judgment motion. We recommend rejection of most of the proposed amendments primarily because they are unnecessary and could potentially be abused.

The proposed amendments listing additional reasons to file a motion set aside an eviction action judgment are either unnecessary or provide no meaningful guidance. Although it is not clear how often it would ever be used, we have no objection to adding void judgments to the current list in RPEA 15(a). Although identical to Ariz.R.Civ.P. 60(b)(5), in the context of an eviction case, proposed Rule 15(a)(12) becomes a confusing list of legal terminology. For example, an eviction judgment that has been “vacated” would not need to also be set aside. Eviction judgments are not “released or discharged.” Even the term “satisfied” is problematic because eviction judgments have two parts – money damages and possession. Resolving one does not necessarily satisfy the other.¹ Likewise, although identical to Ariz.R.Civ.P. 60(b)(6), proposed Rule 15(a)(13) would place no limits and would provide no guidance concerning what could be either a factual or a legal basis for a motion to set aside. The proposed automatic stay is perhaps more problematic.

Although proposed Rule 15(c) does not use the term “writ of restitution,” that appears to be its target. If there is a post-judgment issue, the well-

¹ The existing eviction rules govern satisfaction of judgments. RPEA 4(d)(Includes a procedure to compel satisfaction of judgment). There is also a statutory recognition of a procedure to compel satisfaction of a judgment. A.R.S. §§ 12-1567 (Superior Court), 22-247 (Justice Court) & 22-525 (Small Claims Court).

recognized method to stay an eviction action for possession is to file an appeal. A landlord generally cannot regain possession of the residence while an appeal is pending as long as the tenant pays the appropriate bonds and pays rent into the court.² The Petitioners’ proposed mandatory delay arguably conflicts with existing law;³ but we express no opinion either on that issue or on the public policy question of whether a landlord should be prohibited from regaining possession for three additional days if there is some type of post-judgment motion. We do, however, believe that public comments to proposed court rules is not the proper forum to resolve these issues.

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² Superior Court Rules of Appellate Procedure, Civil, Rule 6(a)(5).

³ “The issuance or enforcement of a writ of restitution shall not be suspended, delayed or otherwise affected by the filing of a motion to set aside or vacate the judgment or similar motion unless a judge finds good cause.” A.R.S. § 12-1178(C). *See also*, A.R.S. § 33-2145.

CONCLUSION

For the reasons stated, we respectfully request this Court reject the proposed amendments to Rule 15 of the Rules of Procedure for Eviction Actions. The Petitioners are attempting to solve a problem that does not exist.

RESPECTFULLY SUBMITTED, this 14th day of February 2025.

/s/ Anna Huberman
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