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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

Supreme Court No. R-25-0019

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

**Comment to Petition to Amend Rule 15,
of Arizona Rules of Procedure for
Eviction Actions**



Commenting Party, Manufactured Housing Communities of Arizona (“MHCA”), hereby opposes the Petition to amend Rule 15 (“Petition”) of the Arizona Rules of Procedure for Eviction Actions (“RPEA”), filed by Community Legal Services (“CLS”), DNA People’s Legal Services (“DNA”), Southern Arizona Legal Aid (“SALA”) (collectively “legal services”), and the William E Morris Institute for Justice (“MIJ”), on or about January 10, 2025.

In summary, Petitioners’ proposed changes to RPEA Rule 15 (“Petitioners’ Proposed Rule 15”) introduce unnecessary and impractical changes that will only complicate eviction proceedings. The proposed amendments misstate the applicable legal standards, add redundant and overly broad provisions, and fail to establish a

1 clear connection between the alleged harm and the need for these changes. Rather
2 than improving the eviction process, these amendments will create confusion,
3 increase litigation burdens, and ultimately harm the very litigants Petitioners claim
4 to protect.
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6 Petitioners recite the same list of harms of evictions and homelessness
7 generally. Petitioners: (1) do not provide justification for the current rule change,
8 and (2) do not clearly articulate the harm they seek to correct. This is another
9 attempt to change evictions, not by looking at a specific issue, but solely by arguing
10 that evictions are bad.
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12 Petition R-25-0019 recycles the same general justifications and arguments
13 that have been used in previous petitions by these tenant advocates—focusing on
14 claims that tenants are uneducated, tenants are unrepresented, and the perils of
15 eviction. It offers no new rationale or evidence-based justification for amending
16 Rule 15. Instead, it represents yet another attempt by Petitioners to introduce
17 unnecessary procedural complexities into eviction proceedings without
18 demonstrating a genuine need for such changes.
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22 Petition R-25-0019 and the conflicting and repetitive verbiage proposed
23 therein, highlights the problem of Petitioners not seeking input from advocates for
24 property owners or the courts, who must consider issues beyond those raised by
25 Petitioners. It's clear that Petitioners' Proposed Rule 15 is one-sided and does not
26 consider the unintended consequences of such language.
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I. STATEMENT OF INTEREST.

The MHCA is a non-profit organization that protects and promotes the interest of Arizona’s manufactured housing community owners. MHCA is the largest manufactured housing community owners’ association in Arizona. The MHCA remains active within Arizona, by tracking legislative and legal issues, educating community owners and managers, and working to improve Arizona’s manufactured housing. Manufactured housing communities are one of Arizona’s greatest sources of low-cost/low-income housing.

II. THE PETITION.

Petitioners stated the alleged purpose behind Petition R-25-0019 is to expand the grounds for relief from eviction judgments and provide a stay of enforcement while emergency motions are pending. They claim these changes will ensure protections for tenants, prevent wrongful evictions, and improve judicial efficiency. By aligning Rule 15 with Rule 60 of the Arizona Rules of Civil Procedure, Petitioners argue that tenants will have a fairer opportunity to challenge eviction judgments and remain in their homes, ultimately aiding housing instability in Arizona.¹

Petitioners attempt to support their claims by citing a five-year-old report that relies on eviction data from five to six years ago. “Some of Arizona’s higher-volume justice courts hear and dispose of several dozens of cases or more on a single court

¹ Pet., at 10.

1 calendar, with hearings lasting no more than a couple of minutes, at most.”²
2 Petitioners’ main argument is that evictions are inherently harmful and that tenants
3 need additional protections to avoid being forced from their homes. However, the
4 fundamental flaw in their reasoning is that amending Rule 15 does not determine
5 whether a tenant receives an eviction judgment—it merely adds unnecessary
6 procedural hurdles that do not change the underlying legal outcome.
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9 **A. THE PROPOSED MODIFICATION OVERBURDENS JUDICIAL**
10 **RESOURCES AND MOVES AWAY FROM THE PURPOSE OF AN**
11 **EVICITION PROCEEDING.**

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13 The Arizona Supreme Court enacted the Eviction Rules to replace the Rules
14 of Civil Procedure in eviction actions. *Bank of New York Mellon v. Dodev*, 246
15 Ariz. 1, 8, 433 P.3d 549, 556 (Ct. App. 2018). A Civil Rule only applies in an
16 eviction action when it is explicitly incorporated by an Eviction Rule. *Id.* The only
17 issue to be decided in an FED [Forcible entry and detainer] action is the right of
18 possession. *Iverson v. Nava*, 248 Ariz. 443, 448, 461 P.3d 463, 468 (Ct. App. 2020).
19 Because an FED action does not bar subsequent proceedings between the parties to
20 determine issues other than the immediate right to possession, those issues are
21 better resolved in proceedings designed to allow full exploration of the issues
22 involved. *Id.* Object of FED action is to afford summary, speedy, and adequate
23 remedy for obtaining possession of premises withheld by tenant in violation of
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² Pet., at 9.

1 tenancy or lease. *Grady v. Barth ex rel. Cnty. of Maricopa*, 233 Ariz. 318, 321, 312
2 P.3d 117, 120 (Ct. App. 2013).

3 The proposed amendments to Rule 15 are fundamentally incompatible with
4 the nature and purpose of eviction proceedings. The eviction process was designed
5 to be a summary and expedited procedure, ensuring that possession disputes are
6 resolved quickly and efficiently. The Petition’s attempt to introduce RPEA
7 15(a)(13), and the automatic stay in RPEA 15(c)³ undermines this structure by
8 expanding eviction litigation beyond its intended scope, introducing vague and
9 subjective standards, and allowing for unnecessary delays that would directly
10 frustrate the core purpose of eviction actions.

11 The proposed addition of RPEA 15(a)(13) which would allow courts to set
12 aside judgments for “any other reason justifying relief”⁴ further erodes the
13 predictability and finality of eviction judgments. Unlike the specific and well-
14 defined grounds already listed in Rule 15, this catch-all provision lacks any limiting
15 criteria, leaving courts to interpret what constitutes a “justifiable” reason on a case-
16 by-case basis.

17 This will inevitably lead to inconsistent rulings, as different courts apply
18 varied discretionary standards to motions seeking relief from eviction judgments.
19 Additionally, this amendment opens the door for frivolous or bad-faith motions,
20 allowing tenants to delay lawful evictions by asserting vague or meritless claims
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28 ³ Pet., at 7–8.

⁴ Pet., at 7

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under an undefined “justice” standard. The existing rules already provide tenants with multiple avenues for relief when a legitimate legal error has occurred; adding an open-ended basis for post-judgment relief is both unnecessary and counterproductive to the expedited nature of eviction proceedings.

The proposed amendment to RPEA 15(c)—which would impose an automatic stay of eviction judgments for three days while the court considers emergency post-judgment motions⁵ would significantly disrupt the efficiency of eviction proceedings and invite tactical delays that serve no legitimate procedural or substantive purpose.

The eviction process is structured to allow landlords to regain possession as quickly as legally permissible, following a valid judgment. Allowing tenants to trigger an automatic delay simply by filing a motion, regardless of its merits, undermines the enforceability of eviction judgments and shifts the burden onto landlords to repeatedly defend their right to possession after it has already been lawfully adjudicated. A blanket rule mandating an automatic stay removes that discretion, effectively granting every tenant an opportunity to postpone eviction regardless of whether their motion has legal merit. The inevitable result will be an increase in meritless post-judgment filings, placing additional strain on court resources and delaying rightful possession to landlords.

The overarching issue with these proposed amendments is that they directly conflict with the purpose of eviction proceedings, which is to provide a summary

1 and efficient process for determining possession. The Petition argues that these
2 changes are necessary to prevent errors in eviction judgments⁶, but it fails to
3 provide any concrete evidence that the current RPEA 15 framework results in
4 systemic due process violations. The real effect of these amendments would be to
5 slow down the eviction process, increase litigation, and undermine the finality of
6 eviction judgments. The existing rules already strike a careful balance between
7 protecting tenants' rights and ensuring that landlords can reclaim possession
8 without unnecessary delay. Introducing vague legal standards and automatic
9 procedural hurdles would shift that balance, allowing for prolonged eviction
10 disputes that extend beyond what the law intends for FED actions.

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14 **B. THE PROPOSED AMENDMENT VIOLATES THE INTENT OF**
15 **ARIZONA'S EVICTION RULES AND ARE REDUNDANT**

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17 "There shall be only one form of action known as an "eviction action." The
18 Arizona Rules of Civil Procedure apply only when incorporated by reference in
19 these rules" AZ ST EVICTION Rule 1.

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21 The Eviction Rules were deliberately designed as a streamlined, summary
22 procedure distinct from the broader Arizona Rules of Civil Procedure, as expressly
23 set forth in Rule 1 of the Arizona Rules of Eviction Procedure. The Arizona
24 Supreme Court's decision to exclude Rule 60's post-judgment relief provisions
25 from eviction actions reflects a conscious intent to address only the immediate issue
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28 ⁵ Pet., at 8.

⁶ Pet., at 9

1 of possession, ensuring that landlords receive a speedy remedy. Had the Court
2 intended for such civil standards to apply, it would have expressly incorporated
3 them; their absence indicates that these broader measures were found unsuitable for
4 the unique exigencies of eviction proceedings.
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6 The proposed amendments are unnecessary and redundant. Rule 15(a)(1) and
7 Rule 15(a)(3) already provide relief in cases where a judgment is void due to lack of
8 jurisdiction or improper service⁷, making the addition of Rule 15(a)(11) relief when
9 a judgment is void⁸ duplicative. Similarly, Rule 15(a)(2) allows for judgments to be
10 set aside when payments are tendered before judgment, addressing concerns about
11 satisfaction or discharge without the need for a broader post-judgment mechanism.⁹
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14 The proposed language regarding judgments that are “no longer equitable”¹⁰
15 is particularly problematic, as it introduces a vague and subjective standard that has
16 no place in eviction litigation. Unlike general civil cases, which may involve
17 continuing legal obligations or injunctive relief, eviction actions determine
18 possession at a single point in time. Allowing tenants to seek relief based on post-
19 judgment developments would create endless opportunities for delay and undermine
20 the finality of eviction judgments.
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23 Rule 60’s post-judgment relief provisions exist in general civil litigation
24 because such cases often involve ongoing financial obligations, prospective legal
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27 ⁷ See AZ ST EVICTION Rule 15

⁸ Pet., at 7

⁹ See AZ ST EVICTION Rule 15

¹⁰ Pet., at 7.
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rights, or injunctive orders that may require future modification. Eviction cases, by contrast, do not involve long-term obligations that necessitate judicial oversight. The proposed amendments would improperly impose civil litigation standards onto eviction proceedings, leading to delays, unnecessary litigation, and increased burdens on the courts. The existing framework already provides tenants with sufficient procedural protections, and the Petition fails to demonstrate any legitimate need for expanding post-judgment relief beyond what is already available.

C. THE PROPOSED AMENDMENT VIOLATES THE STATUTORY LANGUAGE IN A.R.S. § 12-1178(C)

A.R.S. § 12-1178(C) states, “No writ of restitution shall issue until the expiration of five calendar days after the rendition of judgment. The writ of restitution shall be enforced as promptly and expeditiously as possible. 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.”

The Arizona Supreme Court has the power to promulgate rules of procedure. Ariz. Const. art. VI, § 5(5). When a statute conflicts with a procedural rule on a procedural matter, the rule controls. See *State ex rel. Napolitano v. Brown*, 194 Ariz. 340, 982 P.2d 815 (1999); *Pompa v. Superior Court*, 187 Ariz. 531, 931 P.2d 431 (App.1997). Matters of substantive law, however, are controlled by statute or

1 constitutional law. The distinction between procedural and substantive law is often
2 difficult to discern. “[S]ubstantive law is that part of the law which creates, defines
3 and regulates rights; whereas the [procedural] law is that which prescribes the
4 method of enforcing the right or obtaining redress for its invasion.” *State v.*
5 *Birmingham*, 96 Ariz. 109, 110, 392 P.2d 775, 776 (1964).
6 *Pima Cnty. v. Hogan*, 197 Ariz. 138, 140, ¶ 8, 3 P.3d 1058, 1060 (App. 1999),
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8 overruled by *Salt River Project Agric. Improvement & Power Dist. v. Miller Park,*
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10 *L.L.C.*, 218 Ariz. 246, ¶ 8, 183 P.3d 497 (2008).

11 The proposed amendment is clearly contradictory to an existing statute that
12 controls this issue. Essentially, the new rule will create a conflict between a
13 procedural rule and the substantive law. The new rule would create such an
14 ambiguous standard that *any* motion would constitute cause to stay the execution of
15 a writ of restitution. This strips the power from the court to make a determination as
16 to whether a stay should take place on the issuance of a writ of restitution. The
17 legislature constructed the statute to give the court the power to make that
18 determination and a procedural rule cannot make substantive changes in the law.
19 Simply, the proposed rule cannot be implemented because this is an inappropriate
20 means to change substantive law that is established by the legislature through
21 statute.

22 **III. CONCLUSION**

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Petition R-25-0019 should be denied in its entirety. Petitioners’ sole objective

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is to delay eviction proceedings by introducing overly broad and unnecessary continuation requirements that are either duplicative of existing protections or extend beyond the intended scope of eviction actions. These proposed amendments do nothing to improve fairness or efficiency but instead create confusion, increase litigation burdens, and undermine the swift resolution that eviction proceedings are designed to provide. The Court should reject this attempt to complicate and obstruct the eviction process under the guise of procedural reform.

RESPECTFULLY SUBMITTED this 20th day of March, 2025.

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By: _____ /s/ Scott A. Baluha
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CERTIFICATE OF SERVICE

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