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7 **IN THE SUPREME COURT**
8 **STATE OF ARIZONA**

9 In the Matter of:

10 Petition to Amend Rule 15 of the
11 Arizona Rules of Procedure for Eviction
12 Actions

Supreme Court No. R-25-0019

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

13 Pursuant to Rule 28(e) of the Rules of the Supreme Court of Arizona,
14 Disability Rights Arizona (DRAZ), formerly the Arizona Center for Disability Law,
15 respectfully submits this comment in support of Petition R-25-0019, filed by
16 Petitioners William E. Morris Institute for Justice, Community Legal Services, DNA
17 People’s Legal Services, and Southern Arizona Legal Aid (Petitioners), which would
18 amend Rule 15 of the Rules of Procedure for Eviction Actions (“RPEA”) to provide
19 a three-day stay of an eviction judgment during the decision period for post-
20 judgment motions on emergency matters.

21 DRAZ is a statewide non-profit law firm that provides no-cost legal advice
22 and representation to people with disabilities. DRAZ is the designated Protection &
23 Advocacy (P&A) agency for individuals with disabilities in Arizona. DRAZ
24 regularly provides legal information, advice, and representation to tenants with
25 disabilities who have faced or are facing discriminatory evictions. DRAZ has
26 expertise in disability-related barriers that affect individuals’ abilities to maintain
27 stable, accessible housing and, if evicted, to relocate.

28 DRAZ supports the proposed rule amendment in its entirety. DRAZ’s
comment focuses on the amendment to require a three-day stay of an eviction

1 judgment, order, and proceeding upon the filing of a post-judgment motion affecting
2 possession, which directly impacts the disability community DRAZ serves. Tenants
3 with disabilities face disproportionately disruptive impacts from the erroneous
4 deprivation of a property interest prior to resolution of a post-judgment motion. The
5 proposed amendment simply maintains the status quo pending the court’s resolution
6 of a post-judgment motion. It therefore reduces the disproportionate burden placed
7 on tenants with disabilities when an eviction judgment is issued and then reversed
8 within three days.

9 **I. Individuals with disabilities face disability-related barriers that affect**
10 **their vulnerability to eviction.**

11 Title VIII of the Civil Rights Act, also known as the Fair Housing Act (FHA),
12 prohibits discrimination in the sale, rental, and financing of housing because of
13 disability.¹ People with disabilities in Arizona continue to face discrimination in
14 housing despite state and federal legislative action and intent to remedy such
15 discrimination and ensure equal access.² The Arizona and federal Fair Housing Acts
16 require housing providers to, among other things:

- 17 (1) make reasonable accommodations in rules, policies,
18 practices, or services, where such accommodations
19 may be necessary to afford such person equal
20 opportunity to use and enjoy a dwelling;
- 21 (2) permit reasonable modifications of existing premises
22 where such modifications may be necessary to afford
23 a disabled person full enjoyment of the premises;
- 24 (3) construct multifamily dwellings built after a certain

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26 ¹ 42 U.S.C. § 3601, *et seq.*

27 ² *See* 42 U.S.C. §§ 3601, 3604; A.R.S. § 441-1491.19; *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d
28 1142, 1156 (9th Cir. 2013) (zoning laws that discriminate against individuals with disabilities violate the FHA if
they make housing unavailable to disabled people); *City of Tempe v. State*, 237 Ariz. 360, 365, 351 P.3d 367, 372
(Ct. App. 2015) (applying the Arizona Fair Housing Act to the City of Tempe’s administration of housing
vouchers).

1 date in a manner that is readily accessible to and usable
2 by people with disabilities; and
3 (4) make housing equally available to disabled renters and
4 buyers.³

5 The ADA defines “disability” to include “a physical or mental impairment
6 that substantially limits one or more major life activities.”⁴ “Major life activities”
7 include, but are not limited to, seeing, hearing, walking, standing, speaking,
8 breathing, learning, reading, concentrating, thinking, communicating, and working.⁵
9 “A major life activity also includes the operation of a major bodily function,
10 including but not limited to, functions of the immune system, normal cell growth,
11 digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine,
12 and reproductive functions.”⁶ There is a wide variety of disabilities. Some are visible
13 and some are not. Examples of disabilities include, but are not limited to cancer,
14 diabetes, post-traumatic stress disorder (PTSD), HIV/AIDS, autism, cerebral palsy,
15 deafness or hearing loss, blindness or low vision, epilepsy, mobility disabilities
16 requiring use of a wheelchair, walker, or cane, intellectual disabilities (ID), major
17 depressive disorder, schizophrenia, and traumatic brain injury (TBI).⁷

18 The definition of disability is construed “in favor of broad coverage of
19 individuals” and “to the maximum extent permitted.”⁸ Rules of construction for
20 interpreting the ADA definition of “substantial limitation” state that episodic
21 impairments are considered disabilities if they substantially limit major life activities
22 when active.⁹ The determination of whether an impairment substantially limits a
23 major life activity is made “without regard to the ameliorative effects of mitigating

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25 ³ See 42 U.S.C. § 3604; A.R.S. § 41-1491.19.

26 ⁴ 42 U.S.C. § 12102(1).

27 ⁵ 42 U.S.C. § 12102(2)(A).

28 ⁶ 42 U.S.C. § 12102(2)(a).

⁷ See Introduction to the Americans with Disabilities Act, ADA.gov, available at <https://www.ada.gov/topics/intro-to-ada/> (last accessed April 29, 2025).

⁸ 42 U.S.C. § 12102(4)(A).

⁹ 42 U.S.C. § 12102(4)(D).

1 measures” including medication, medical supplies, equipment, or appliances, use of
2 assistive technology, reasonable accommodations, or auxiliary aids or services.¹⁰

3 People with disabilities face obstacles to accessing and maintaining stable
4 housing. These obstacles include but are not limited to: difficulties physically
5 accessing housing for people who use walkers, wheelchairs, or other mobility
6 devices, frequent medical appointments that can interfere with stable employment,
7 disability-related symptoms such as chronic pain and fatigue that can reduce the
8 number of hours an individual is able to work, overt and covert discrimination by
9 housing providers, unmet needs for auxiliary aids during communications with
10 property managers and sellers, fixed income for Social Security Disability Income
11 (SSDI) recipients, and unlawful restrictions that impede reasonable modification of
12 a property.¹¹

13 Disability-related factors and circumstances often precipitate the eviction of
14 tenants with disabilities. For example, an individual may experience a deterioration
15 or decline in their disability-related symptoms, leading to financial loss. Or an
16 individual may experience an interruption in support systems that previously
17 allowed them to live independently in the community. Individuals who receive social
18 security disability income (SSDI) may experience delays or interruptions in benefits
19 through no fault of their own. Many tenants with disabilities facing eviction for
20 nonpayment of rent have lost work because of health or medical conditions beyond
21 their control, such as hospitalization or worsening symptoms. Tenants facing
22 evictions for other types of lease violations may have been unable to keep up with

23 ¹⁰ 42 U.S.C. § 12102(4)(E)(i).

24 ¹¹ See Fair Housing Center for Rights & Research, Fair Housing Isn’t Just a Need—It’s a Mandate, available at
25 <https://thehousingcenter.org/accessible-housing-isnt-just-a-need-its-a-mandate/#:~:text=In%20the%20U.S.%2C%20there%20is%20a%20significant%20need,5%25%20of%20the%20national%20housing%20supply%20is%20accessible> (last accessed April 30, 2025) (“In the U.S., there is a significant
26 need for accessible housing, and a concerning lack of units available. Despite the fact that 8.2% of Americans and
27 28.6% of seniors have a physical disability, less than 5% of the national housing supply is accessible. Moreover, less
28 than 1% of housing is wheelchair accessible. Studies show that 6.8 million households experience accessibility
challenges in their homes. The U.S. is approximately 3 million to 6 million houses short of what is needed in terms
of accessible housing.”)

1 lease obligations due to disability-related symptoms or loss of caregiving support.
2 In most cases, a tenant with a disability who is facing eviction is already dealing
3 with extraordinarily challenging life circumstances.

4 As observed in the course of DRAZ’s advocacy, tenants often face eviction
5 due to discrimination related to their disability or accommodation needs. For
6 example, DRAZ represented a tenant who was wrongfully evicted due to unlawful
7 application of an apartment complex’s crime-free ordinance when police came to
8 the apartment to perform a mental wellness check. DRAZ represented a tenant with
9 a mobility disability who was unlawfully forced to vacate due to the apartment
10 complex’s failure to provide an accessible unit and charging of discriminatory
11 transfer and service animal fees. DRAZ represented a tenant who was unlawfully
12 charged for normal wear-and-tear on flooring because of a mobility device in her
13 apartment. These are just a few examples of tenants who have faced disability-based
14 discrimination from housing providers.

15 Given the substantial barriers that many people with disabilities regularly face
16 in locating and maintaining stable, accessible housing, providing a three-day stay of
17 an eviction judgment while a court resolves a post-judgment motion is both
18 reasonable and just. A three-day stay eliminates additional barriers imposed by
19 improper deprivation of a tenant’s property interest. Absent the proposed rule
20 change, a tenant with a disability could be forced to vacate their dwelling pending
21 resolution of a post-judgment motion, only to then have the court grant relief. This
22 scenario unduly disrupts and destabilizes the life of a tenant with a disability. The
23 proposed rule change will prevent this undue disruption by allowing the judicial
24 process to be completed before an eviction judgment is effectuated.

25 **II. A three-day stay of an eviction judgment pending resolution of a post-**
26 **judgment motion alleviates disproportionate burdens on tenants with**
27 **disabilities.**

28

1 Tenants with disabilities experience unique harm from improper deprivation
2 of a property interest prior to resolution of a post-judgment motion. Tenants with
3 disabilities face barriers above and beyond those of non-disabled tenants in
4 relocating to accessible housing. The proposed rule change remedies this injustice
5 by providing a three-day stay of an eviction judgment pending resolution of a post-
6 judgment emergency motion.

7 Tenants with disabilities face barriers to moving far exceeding those of non-
8 disabled tenants. If forced to relocate on a rapid timeline, tenants with disabilities
9 may be forced to abandon mobility aids and devices and even life-saving medical
10 equipment. They may have to vacate a dwelling that met the FHA's accessibility
11 guidelines or one that they modified at their own expense, such as by building ramps,
12 widening doorways, installing grab bars, lowering shelving, or installing a doorbell
13 with a visual flasher. Eviction can disrupt critical medical and community support
14 systems of people with disabilities, such as easy access to health care providers and
15 caregivers. Often, households with family members with disabilities have additional
16 disability-related criteria in locating suitable housing. It may need to be accessible,
17 on the ground floor, on an accessible bus line, near behavioral health clinics or
18 specialty medical practices, near a family member who provides personal care or
19 other related assistance, and within a specific price point based on a limited income.
20 Disrupting housing will result in longer periods of housing instability trying to
21 replace housing that fits essential criteria. The search process can be longer because
22 of discrimination in the rental screening process. People with disabilities,
23 particularly people with mental health and intellectual disabilities, face
24 discrimination in the search for rental housing, a task made even more difficult by
25 the existence of an eviction record.¹² Eviction can therefore have compounded and

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27 ¹² See Office of Policy Development and Research (PD&R), Rental Housing Discrimination on the Basis of Mental
28 Disabilities: Results of Pilot Testing, available at <https://www.huduser.gov/portal/publications/MentalDisabilities-FinalPaper.html> (last accessed April 30, 2025) (Findings include (1) people with mental illness (MI) or intellectual and developmental disabilities (I/DD) were less likely to receive responses to inquiries about rental housing and less

1 cascading effects on tenants with disabilities to the detriment of their health,
2 wellbeing, and the entire community.

3 A three-day stay of an eviction judgment while a court resolves a post-
4 judgment motion does not unduly burden landlords. A stay under these
5 circumstances simply maintains the status quo while the court resolves a post-
6 judgment motion. Both the existing and amended Rule 15 provide that a court must
7 resolve an emergency post-judgment motion within three days. Accordingly, the
8 maximum amount of time a stay of an eviction judgment will last under the proposed
9 amended rule is three days. A brief stay will also ease the administrative and
10 logistical burden on landlords in cases where an eviction judgment is reversed post-
11 judgment.

12 **III. Conclusion**

13 Tenants with disabilities should be permitted to remain in their home pending
14 resolution of a post-judgment motion that may reverse an eviction judgment. A
15 three-day stay of an eviction judgment while a post-judgment motion is resolved
16 simply maintains the status quo during that time, does not grant tenants any
17 additional rights or privileges, and does not unduly burden landlords.

18 For the above reasons, we respectfully request that the Court approve the
19 Petition to Amend Rule 15 of the Arizona Rules of Procedure for Eviction Actions.

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23 Respectfully submitted this 30th day of April 2025.
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27 likely to be invited to inspect available units; (2) people with MI or I/DD were more likely to be encouraged to look
28 at a different unit than the one advertised; and (3) a significant proportion of people with MI or I/DD received
negative responses to requests for reasonable accommodations in their rental housing.)

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DISABILITY RIGHTS ARIZONA

By /s/ Katherine Henrichs

Original electronically filed with the
Clerk of the Supreme Court of Arizona
this 30th day of April 2025.

By: /s/ Katherine Henrichs