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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 of the	)	<b>Comment to Petition to Amend</b>
RULES OF PROCEDURE	)	<b>Rule 15, of the</b>
FOR EVICTION ACTIONS	)	<b>RULES OF PROCEDURE FOR</b>
	)	<b>EVICTION ACTIONS</b>

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Commenting Party, Organized Power in Numbers (“OPIN”) hereby respectfully submits this Comment in support of 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”) and the William E. Morris Institute for Justice (“MIJ”) on January 10, 2025.

In summary, the proposed changes to RPEA 15 introduce simple and practical amendments that ensure all parties have access to relief from judgements, orders, and proceedings where justice so requires it. Ensuring the procedural possibility for adequate redress and relief from judgement is important in Arizona considering the extremely fast summary process nature of evictions and the scale of the eviction crisis, which is especially acute in Maricopa County. This comment will focus on two key reasons why the petition should be adopted and will address several opposition arguments raised in other comments.

## **I. STATEMENT OF INTEREST**

This comment is made on behalf of Organized Power in Numbers (“OPIN”), a fiscally sponsored project of Working Families Organization. OPIN was formerly known as Unemployed Workers United (“UWU”). OPIN advocates for the rights of poor and working-class people, with a particular focus on the wellbeing of immigrants and people of color. OPIN’s work in Arizona has included bringing litigation to challenge former Arizona Governor Doug Ducey’s premature termination of federal pandemic unemployment compensation and advocating for (and securing the adoption of) laws banning rental discrimination based on housing vouchers or other sources of income. The process of listening to and working with Arizonans throughout these campaigns led OPIN to an even deeper understanding of the challenges and difficulties facing poor and working-class renters in Arizona, especially in Maricopa County.

Over the past several years, our members have identified rising housing costs as the most significant threat to their families’ stability and security. In response, OPIN began offering recurring virtual know-your-rights training for tenants, has accompanied several of our members through the eviction process, and carried out a series of court-watch sessions—observing eviction hearings in several Maricopa County Justice Courts, both in person and virtually.

OPIN’s members’ experiences reflect a larger housing crisis across Maricopa County and the entire state of Arizona. There were 87,197 eviction filings in Maricopa County in 2024, a figure that reflects a 36% increase over the pre-covid average annual filings figure.<sup>1</sup> The number of filings constitutes a 14% eviction filing rate, meaning that there are 14 evictions filed for

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<sup>1</sup> Publicly available data from Maricopa County Justice Courts, available by request from the Public Information Officer.

every 100 renters in Maricopa County.<sup>2</sup> Maricopa County leads the nation in evictions with rates nearly twice the national average.<sup>3</sup> These statistics should raise the alarm for anyone considering changes to rules, policies, or procedures that impact the eviction process in Arizona.

## **II. OPIN SUPPORTS THE PROPOSED AMENDMENTS**

OPIN supports the proposed amendments because they protect due process for all parties in eviction actions and are responsive to the disparate realities of plaintiffs and defendants in eviction actions.

### **A. The Proposed Amendments are Necessary Because Evictions Pose Health and Safety Risks to Defendants**

In Arizona the summary eviction process is extremely fast. A writ of restitution can be executed as quickly as the eighteenth day after an eviction case was initiated.<sup>4</sup> The origins of the summary eviction process are traceable to common law England where a tenant's possessory interest, although eventually recognized, was always subjugated to the landlord's dominant and greater ownership interest.<sup>5</sup> Across the United States, landlord-tenant law has evolved since common law England, reflecting a mixture of legal principles from property law, contract law, and consumer law.<sup>6</sup> Yet the process remains tilted in favor of landlords. The last major legal challenge to the fundamental fairness and constitutionality of summary eviction proceedings was in 1972 when the Supreme Court decided the case of *Lindsey v. Normet*.<sup>7</sup> The Supreme Court

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<sup>2</sup> Phoenix Arizona: Eviction Tracking System, Eviction Lab (2025), <https://evictionlab.org/eviction-tracking/phoenix-az/> (last visited Mar 5, 2025).; *See also* publicly available 2024 annual data from the Maricopa County Justice Courts, available by request from the Public Information Officer.

<sup>3</sup> *Id.*

<sup>4</sup> Arizona Supreme Court Timeline for Newly Filed Eviction Actions <https://www.azcourts.gov/Portals/34/Forms/Eviction%20Timeline%20with%20footnote.pdf?ver=2021-10-01-190759-163> (last accessed April 30, 2025)

<sup>5</sup> Kathryn Ramsey Mason, *Housing Injustice and the Summary Eviction Process: Beyond Lindsey v. Normet*, 74 OKLA. L. REV. 397 (2022) <http://digitalcommons.law.edu/olr/vol74/iss3/5>

<sup>6</sup> *Id.* At 396.

<sup>7</sup> *Lindsey v. Normet*, 405 U.S. 56, 58 (1972).

held that summary eviction processes were generally not unconstitutional.<sup>8</sup> This decision has ensured that, “a legal process which prioritizes the landlord’s claim of possession above all other considerations, remains the law of the land to this day.”<sup>9</sup>

In addition to an uneven legal playing field, it is important to consider the disparate stakes for defendant tenants and plaintiff landlords in eviction cases. Yale University research has confirmed the intuitive link between evictions and homelessness and found that evictions are a cause of increases in homelessness and residential mobility.<sup>10</sup> The stakes for plaintiff landlords do not include physical safety and shelter, whereas defendant tenants face the loss of their homes, which can be a matter of life and death depending on the season in Arizona. In 2024 there were 602 recorded heat-related deaths in Maricopa County and people experiencing homelessness made up 50% of those deaths.<sup>11</sup> While not yet codified in US law, in the international community, housing is understood as a fundamental human right.<sup>12</sup> In light of these disparities in the stakes of an eviction, defendant tenants should be allowed to stay housed for the short period while legitimate questions about relief from judgement and orders are heard and

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<sup>8</sup> *Id.*

<sup>9</sup> Kathryn Ramsey Mason, *Housing Injustice and the Summary Eviction Process: Beyond Lindsey v. Normet*, 74 OKLA. L. REV. 413 (2022) <http://digitalcommons.law.edu/olr/vol74/iss3/5>

<sup>10</sup> Henri Cornec, *New Research Sheds Light on the Economic Consequences of Evictions*, Yale Department of Economics (Sept. 26, 2023), <https://economics.yale.edu/news/230926/new-research-sheds-light-economic-consequences-evictions>. (last accessed May 1, 2025).

<sup>11</sup> 2024 Preliminary Heat-Related Deaths Report, Maricopa County Department of Public Health, Division of Epidemiology and Informatics, <https://www.maricopa.gov/ArchiveCenter/ViewFile/Item/5934> (last accessed April 30, 2025)

<sup>12</sup> Article 25, Universal Declaration of Human Rights (1948) <https://www.refworld.org/legal/resolution/unga/1948/en/11563> (last accessed April 30, 2025); See also Article 11.1, International Covenant on Economic, Social and Cultural Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (last accessed April 30, 2025); See also United Nations Human Rights Special Rapporteur on Housing As a Human Right <https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing> (last accessed April 30, 2025) (“Increasingly viewed as a commodity, housing is most importantly a human right. Under international law, to be *adequately* housed means having secure tenure —not having to worry about being evicted or having your home or lands taken away. It means living somewhere that is in keeping with your culture, and having access to appropriate services, schools, and employment. Too often violations of the right to housing occur with impunity. In part, this is because, at the domestic level, housing is rarely treated as a human right.”)

ruled on in an expedited manner by the Justice Courts. The risk of heat-related death due to being unhoused is an extremely clear form of irreparable harm and necessitates the adoption of the mandatory three day stay proposed at RPEA 15(c).

Given the high stakes of an eviction, it is critical that RPEA contain robust pathways for relief from judgement, orders, and proceedings, including when a judgement has been satisfied, is void, or is no longer equitable. It is also critical that in emergency situations, where legitimate questions about the validity, applicability, or appropriateness of a judgement, order or proceeding arise, tenants are allowed to remain housed while the issue is litigated and decided on an expedited three-day timeline.

**B. The Amendments Are Necessary Because the Majority of Eviction Filings Seek Possession *and* Monies Owed**

Almost all plaintiffs in eviction actions filed in Maricopa County are seeking both possession of the property *and* alleged money owed, up to ten thousand dollars.<sup>13</sup> The presence of these dual interests elevates the necessity of adequate due process protections and relief from judgements, orders, and proceedings. In their opposition comment, the Zona Law Group P.C. states that “adding an open-ended basis for post-judgement relief is...counterproductive to the expedited nature of eviction proceedings”. However, it is inaccurate to characterize the proposed amendments to RPEA 15 as counterproductive to an expedited summary process given that the amendments primarily deal with motions that take place after the summary process has concluded and where there is a legitimate need to seek relief from a decision or order. By the time a motion is filed based on RPEA 15 (in its current form *and* with the proposed amendments) the expedited proceeding has typically (though not always) ended, and the

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<sup>13</sup> Publicly available data from Maricopa County Justice Courts, available by request from the Public Information Officer.

expedited nature of the summary process has been fulfilled. RPEA 15 and the proposed amendments generally come into play at the conclusion of the expedited process, as a set of critical safeguards for those instances when either party realizes that relief is needed. Modifying the language of RPEA to conform to Arizona Rule 60 of Civil Procedure is common sense and fair. Ensuring that there is a stay of proceedings for just three short days to protect tenants against forced displacement before adjudication of motions for relief from judgements or orders is reasonable, given the unequal circumstances and stakes for defendants and plaintiffs in residential eviction proceedings.

### **III. CONCLUSION**

In the interests of procedural fairness, justice, public health, and public fiscal common sense, OPIN respectfully requests the proposed amendments to RPEA 15 be adopted by the Arizona Supreme Court.

RESPECTFULLY SUBMITTED, this 1st of May, 2025

ORGANIZED POWER IN NUMBERS

By: /s/ Keally L. Cieslik  
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