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IN THE SUPREME COURT
STATE OF ARIZONA

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

Supreme Court No. R-25-0019

**REPLY TO COMMENTS TO THE
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 “civil legal aid”), and the William E. Morris
4 Institute for Justice (“MIJ”) respectfully reply to comments submitted regarding
5 their Petition to Amend Rule 15 of the Rules of Procedure for Eviction Actions
6 (“RPEA”). In summary, the proposed rule amendments outlined in the Petition are
7 necessary to harmonize the RPEA with the Arizona Rules of Civil Procedure on
8 grounds for relief from judgments, orders, and proceedings. Moreover, the
9 proposed rule amendments outlined in the Petition will prevent erroneous
10 deprivations of property interests during the three-day emergency decision period
11 already established in the existing RPEA Rule 15, providing a limited stay period
12 consistent with Arizona statutory and procedural law. Finally, the Petition’s
13 proposed refinements of RPEA Rule 15 will help ensure Due Process of Law and
14 promote Access to Justice, safeguarding the constitutionally protected property
15 interests of plaintiffs and defendants in eviction actions.

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21 The State Bar of Arizona, the Arizona Commission on Access to Justice,
22 Organized Power in Numbers (“OPIN”), Disability Rights Arizona (“DRAZ”), and
23 Charles Lucking with the law firm Barton Mendez Soto, all filed comments in
24 support of the proposed rule changes outlined in the Petition. The Justice of the
25 Peace Bench in Maricopa County; Zona Law Group, P.C., on behalf of the
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1 Manufactured Housing Communities of Arizona; and the law firm of Hull,
2 Holliday & Holliday, P.L.C., all filed comments in opposition to the Petition.
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4 This Reply focuses on addressing enumerated concerns and common themes
5 from opposing commenters, as well as other concerns expressed by Petition
6 opponents. We also highlight areas of agreement with suggestions for refinements
7 from the State Bar of Arizona.
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9 **I. The Proposed Amendments are Necessary for Courts to Make**
10 **Meaningful Decisions Regarding Relief from Eviction Judgments**

11 The Justice of the Peace Bench in Maricopa County states in its comment,
12 “We recommend rejection of most of the proposed amendments primarily because
13 they are unnecessary and could potentially be abused.”¹ However, the Justice of
14 the Peace Bench in Maricopa County did not articulate specifically why they
15 believe most² of the proposed amendments are unnecessary or will be abused. As
16 explained below, the proposals are indeed necessary for courts to order relief from
17 eviction judgments.
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21 Similarly, Manufactured Housing Communities of Arizona states in its
22 comment, “Petitioners’ proposed changes to RPEA Rule 15 . . . introduce
23 unnecessary and impractical changes that will only complicate eviction
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27 ¹ Comment from the Justice of the Peace Bench in Maricopa County at 1.

28 ² The Maricopa County Justice of the Peace Bench expressed no opposition to adding a ground for relief from void judgments to RPEA Rule 15.

1 proceedings.”³ Manufactured Housing Communities of Arizona states, “. . .
2 [A]mending Rule 15 does not determine whether a tenant receives an eviction
3 judgment – it merely adds unnecessary procedural hurdles that do not change the
4 underlying legal outcome.”⁴ Manufactured Housing Communities of Arizona
5 misinterprets the Petition and the concept of post-judgment relief, generally. The
6 purpose of the Petition is not to prevent a tenant from having an eviction judgment
7 entered against them at the outset. Rather, the Petition is meant to improve the
8 meaningfulness of the process for post-judgment relief and to ensure that courts
9 have well-established legal standards to determine when and whether eviction
10 judgments, orders, and proceedings remain active and effective in operation.
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15 A party in any civil litigation who seeks relief from a judgment has, by
16 definition, already “received” a judgment. But the party may have been unaware
17 of the proceeding giving rise to the judgment in question due to ineffective notice
18 of the hearing. Or, following the entry of judgment in a summary eviction
19 proceeding, new evidence may emerge or the passage of time may reveal
20 information that affects the judgment’s enforceability.
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23 A trial court is entitled to consider any new evidence or information to
24 ensure fair and meaningful decision-making in considering the validity of a
25 judgment. And countless easily imaginable scenarios – especially in fast-moving,
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27 ³ Comment from Manufactured Housing Communities of Arizona at 1.

28 ⁴ *Id.* at 4.

1 summary eviction proceedings – explain why a party may need to request relief
2 from a judgment, order, or proceeding, and why they may have evidence or
3 information a judgment-entering court should consider to ensure the accuracy and
4 fairness of judicially determined outcomes.
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6 Additionally, contrary to the claim that the proposed amendments to RPEA
7 Rule 15 add “unnecessary procedural hurdles that do not change the underlying
8 legal outcome . . . ,” relief from an eviction judgment may effectively change the
9 underlying legal outcome of a case. For example, if a court issued an eviction
10 judgment without realizing that the absent defendant had already paid all legally
11 required sums before the complaint was filed, granting relief could correct the error
12 and prevent an unjust eviction. Or, with the entry of judgment in the case, a proper
13 motion for relief under RPEA Rule 15 may result in an order vacating the
14 judgment as void, dismissing the eviction complaint, and sealing the associated
15 eviction case court file.
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20 The proposed amendments will not dramatically overhaul the existing rule.
21 Nor will they drastically alter eviction litigation or overly complicate eviction
22 proceedings in Arizona. In effect, the proposed amendments will simply align
23 eviction litigation with other civil litigation in the available grounds for relief from
24 judgments, orders, and proceedings.
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27 There are six enumerated grounds for relief from civil judgments in the
28 Arizona Rules of Civil Procedure. These familiar grounds are also found in the

1 Federal Rules of Civil Procedure, as well other states’ rules of civil procedure
2 around the United States. All six provisions are well-understood and well-
3 explored in application in trial and appellate courts in Arizona and around the
4 country.
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6 When the Arizona Supreme Court enacted RPEA Rule 15, the Court
7 incorporated three of the six grounds for relief applicable to civil judgments under
8 the Arizona Rules of Civil Procedure (“Ariz. R. Civ. P.”). The three already-
9 incorporated grounds bring with them associated case law from Arizona and other
10 jurisdictions, outlining the contours and limits of their scope.
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13 Adding the three presently omitted⁵ grounds from Rule 60, Ariz. R. Civ. P.,
14 into RPEA Rule 15 is a commonsense step. It will allow plaintiffs and defendants
15 to rely on well-established rules provisions and authorities when seeking relief
16 from judgments, orders, and proceedings, moored in the familiar terminology of
17 existing rules applicable to other civil cases. Moreover, eviction proceedings
18 implicate constitutionally protected property interests of both plaintiffs and
19 defendants – having all the grounds for relief available for other civil judgments
20 available in eviction proceedings is an overdue and important action.
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24 Arizona’s civil legal aid providers have experienced real-world examples of
25 cases that may have benefitted from harmonizing RPEA Rule 15 with Rule 60,
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28 ⁵ Existing RPEA Rule 15 omits as grounds for relief Rule 60(d), (e), and (f)
from the Arizona Rules of Civil Procedure.

1 Ariz. R. Civ. P. For example, in one civil legal aid case, an attorney represented a
2 defendant whose adverse eviction judgment was on appeal. The
3 defendant/appellant in the case had correctly followed the procedures required by
4 A.R.S. § 12-1179(D) to post a supersedeas bond, which stayed execution of the
5 judgment for possession. The civil legal aid attorney filed an emergency motion
6 under RPEA Rule 15, seeking relief from a still-active judgment because the
7 justice court had improperly ordered the issuance of a writ of restitution (the legal
8 writ authorizing a sheriff or constable to evict the defendant). Ultimately, the court
9 granted the RPEA Rule 15 emergency motion and stayed the issuance of the writ
10 of restitution. However, this was only possible after the civil legal aid attorney
11 used their legal expertise and court system knowledge to advocate before the
12 assigned judge. Had the attorney not intervened, there would have been no stay of
13 the eviction pending appeal. The civil legal aid attorney reports that, although the
14 motion was granted after extraordinary efforts, the path to relief would have been
15 clearer and more accessible if the broad, “catch all” provision from Rule 60(b)(6),
16 Ariz. R. Civ. P. (“any other reason justifying relief”) had been available.
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23 Adoption of the proposed changes in the Petition will help trial courts apply
24 legal standards that have been applied in other civil litigation for decades, with
25 support from the body of case law attending the rule provision. Contrary to
26 opposing commenters’ unfounded statements, the proposed amendments to RPEA
27 Rule 15 are necessary and reasonable. And the three provisions in Rule 60, Ariz.
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1 R. Civ. P. – Rules 60(b)(4), (5), and (6) – that the Petition would add to RPEA
2 Rule 15 as grounds for relief from eviction judgments, orders, and proceedings,
3
4 have not resulted in the alleged harms predicted by opposing commenters when
5 applied in other areas of the law.

6 **II. The Proposed Amendments Do Not Conflict with State Statutes**
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8 Opposing commenters argue that the proposed amendment to add a three-
9 day stay in emergency cases conflicts with existing law. Hull, Holliday &
10 Holliday states in its comment that the Petition “seeks to override a state statute
11 and is nothing more [sic] the return to an earlier age, when the civil procedure rules
12 were applicable to eviction procedures.”⁶ Hull, Holliday & Holliday goes on to
13 say, “Petitioners’ proposed 3-day stay, which would delay the issuance of writs of
14 restitution pending post judgment motions, directly conflicts with the plain
15 language and intent of both state statute and existing provisions of the RPEA.”⁷
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19 Manufactured Housing Communities of Arizona states that the Petition
20 proposes amendments that “are fundamentally incompatible with the nature and
21 purpose of eviction proceedings.”⁸ Citing A.R.S. § 12-1178, the Maricopa County
22 Justice of the Peace Bench states, “The Petitioners’ proposed mandatory delay
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27 ⁶ Comment from Hull, Holliday & Holiday, P.L.C., at 1.

28 ⁷ *Id.* at 4.

⁸ Comment from Manufactured Housing Communities of Arizona at 5.

1 arguably conflicts with existing law”⁹

2 When advancing their arguments about the proposed streamlining of an
3 emergency three-day stay in emergency post-judgment motions, opposing
4 commenters ignore two substantial realities of existing law: [1] RPEA Rule 15
5 already mandates a three-day decision period and deems motions affecting parties’
6 present possessory interests as legal emergencies; and [2] A.R.S. § 12-1178 and
7 RPEA Rule 14 both provide that enforcement of writs may be “suspended,
8 delayed, or otherwise affected” upon a showing of “good cause.”
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12 The Arizona Supreme Court has established, and embedded in existing
13 RPEA Rule 15, a category of emergency post-judgment motions in eviction cases.
14 This implicitly recognizes the importance of an emergency procedure when
15 possession is at issue in summary eviction proceedings, which move at a faster
16 pace than other civil litigation. Not all motions for relief from judgments are
17 emergency motions with possession at issue under RPEA Rule 15. But, when such
18 emergency motions arise, the Arizona Supreme Court has determined in its
19 wisdom that there is cause to impose a three-day emergency decision period.
20 Obviously, such emergency situations – when an error means an eviction order or
21 judgment depriving either a plaintiff or defendant of rightful, legal possession –
22 warrant a brief stay during the three-day decision period to give meaning to the
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27 ⁹ Comment from the Justice of the Peace Bench in Maricopa County Justice at
28 3.

1 emergency “good cause” the Court built into the design of the existing rule.

2 Petitioners simply seek to amend RPEA Rule 15(c) to explicitly affirm that
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4 legal emergencies warrant emergency treatment. The proposed three-day
5 emergency stay is in complete harmony with existing substantive and procedural
6 law, as developed by the Arizona Supreme Court in its past rulemaking regarding
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8 emergency post-judgment motions in eviction cases. Emergency motions under
9 RPEA Rule 15 are de facto “good cause” scenarios, and courts hearing such
10 motions have discretion to determine if a motion qualifies as an emergency under
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12 the rule.

13 Opposing commenters prefer that litigants facing legal emergencies file
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15 additional paperwork before courts may issue emergency stay requests, despite the
16 Arizona Supreme Court having decided they are emergencies covered by the
17 existing rule. Meanwhile, Petitioners’ focus is on ensuring that existing procedural
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19 and substantive law is applied fairly and meaningfully, with the added bonus of
20 reducing filing burdens on the courts and litigants. A brief emergency stay
21 (consistent with the court’s decision time) is reasonable for all involved in an
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23 eviction proceeding where (already having been deemed an emergency) the trial
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25 court must rule in a matter of three days.

26 Emergency motions under RPEA Rule 15 necessarily affect the property
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28 rights and interests of both landlords and tenants. Treating such matters with the
emergency care the Arizona Supreme Court envisioned – including a safeguard in

1 the form of a three-day stay during the emergency decision period – affirms and
2 clarifies existing procedural and statutory law.¹⁰ Of course, as the language of the
3 RPEA and applicable statutes permit, suspensions or delays in writ enforcement
4 for longer periods of time may be permissible, if supported by good cause.
5 However, building a three-day emergency stay into the language of RPEA Rule 15
6 represents a measured and commonsense clarification, reducing administrative
7 burdens on courts hearing emergency post-judgment motions and the parties in
8 such proceedings.
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12 **III. Opposing Commenters’ Concerns of Abuse are Conjectural**

13 Manufactured Housing Communities of Arizona states in its comment,
14 “*Allowing tenants to seek relief* based on post judgment developments would
15 create endless opportunities for delay and undermine the finality of eviction
16 judgments.”¹¹ [Emphasis added.] Hull, Holliday & Holliday, P.L.C., states in its
17 comment, “. . . the identified benefits of these amendments would merely replicate
18 remedies that are already available and would serve only to disrupt the court’s
19 calendars, create confusion as to the finality of rulings, and *would do nothing to*
20 *extend any benefit to tenants who already have the remedies the proposed rule*
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26 ¹⁰ Civil legal aid staff have reported frequent instances of delays beyond three
27 days in trial court decisions on emergency post-judgment motions subject to the
28 three-day decision period in existing RPEA Rule 15.

¹¹ Comment from Manufactured Housing Communities of Arizona at 8.

1 *change seeks to create anew.*¹² [Emphasis added.]

2 As an initial matter, as exemplified in the bold, highlighted excerpts
3 reproduced above, opposing commenters attempt to characterize Petitioners'
4 proposed amendments as solely benefiting tenants and being exclusively tenant-
5 focused. Petitioners' proposals are party-neutral and recognize the constitutionally
6 protected property interests of both landlords and tenants. Otherwise stated, the
7 language in Petitioners' proposed amendments focuses on fairness and accuracy of
8 judicially determined outcomes, not which party brings an emergency motion or
9 seeks relief from an order, judgment, or proceeding in an eviction action.
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13 More fundamentally, though, opposing commenters outright state that
14 approval of the Petition "would create endless opportunities for delay,"¹³ create
15 confusion regarding the finality of judgments, disrupt court calendars, and so on.
16 Opposing commenters offer no data or evidence for their alarmist claims. As
17 reiterated above, emergency RPEA Rule 15 motions have existed in Arizona for 16
18 years. There are ten bases for relief in the existing rule that could support an
19 emergency motion. Arizona courts have not reported problems with emergency
20 motions since the enactment of RPEA Rule 15. If Court adopts the Petition's
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24 ¹² Comment from Hull, Holliday & Holiday, P.L.C., at 5.

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26 ¹³ Using procedural rules for purposes of delay is unethical litigation conduct.
27 See [Ethics Rule 3.2 of the Arizona Rules of Professional Responsibility](#) and its
28 Comment.

1 suggested changes, courts hearing RPEA Rule 15 motions under the new rule
2 provisions will retain discretion regarding scheduling motion hearings and
3
4 deciding cases without undue delay.

5 Court rules exist to enumerate and mandate best practices for common court
6 procedures, ensuring that responsible judicial officers and parties have clear,
7
8 standardized pathways and reliable benchmarks to follow. The proposed rule
9 changes will integrate well-established principles of law governing relief from civil
10 judgments into RPEA Rule 15. As reflected historically, it will not open the door
11
12 to a flood of new RPEA Rule 15 motions in eviction proceedings. Adopting the
13 proposed amendments outlined in the Petition will ensure that fact-finders have a
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15 comprehensive set of post-judgment tools and authorities to make legally accurate
16 decisions about the parties' present possessory and other post-judgment rights and
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18 interests. Opposing commenters' conjectural alarmism should not persuade the
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20 Court against commonsense improvements to the existing procedures in RPEA
21 Rule 15.

22 **IV. An Appeal of an Eviction Judgment is Unavailable and Inappropriate in**
23 **Most Scenarios Covered by RPEA Rule 15 Motions**

24 Opposing commenters suggest that eviction litigants dissatisfied with
25 judgments should appeal, rather than seek other post-judgment relief available
26
27 under RPEA Rule 15. Obviously, in the case of a default eviction judgment, the
28 only relief that may be available, at least initially, is under RPEA Rule 15, as Rule

1 3(d) of the Superior Court Rules of Appellate Procedure-Civil mandates the
2 following:

3
4 A party against whom a default judgment has been
5 rendered must first move in the trial court to set aside that
6 judgment. The party may then take an appeal from the
order denying the motion.

7 Similarly, in many other scenarios where a party may seek relief from a
8 judgment, there is evidence or information that has been discovered or developed
9 over time that affects the validity of the judgment. In these scenarios, it is not
10 appropriate to appeal a judgment based on a record developed in the proceeding in
11 the past. In any event, the five-day appeal deadline may have long passed before
12 relevant, material facts emerge to raise a question about the ongoing validity of an
13 eviction judgment.

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17 Opposing commenters' assertion that eviction litigants should appeal every
18 judgment they wish to challenge is based on a complete misunderstanding of the
19 appropriate use of appeals, as well as the relief provided by RPEA Rule 15 and its
20 analog in the Rules of Civil Procedure. RPEA Rule 15 is often the only
21 appropriate procedural pathway for many litigants who wish to seek relief from an
22 order, judgment, or proceeding in an eviction action.

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25 **V. The State Bar of Arizona's Proposed Refinements Improve the Rule's**
26 **Structure and Text Set Forth in the Petition**

27 The State Bar of Arizona supports the Petition but recommends refinements
28 to the proposed rule changes. Petitioners substantially agree with the Bar's

1 recommendations as follows:

- 2
3 1. The State Bar recommends the following regarding
4 additional grounds in RPEA Rule 15(a):

5 Adding the Three Grounds: The State Bar supports adding
6 the three traditional grounds from paragraphs (4), (5), and
7 (6) of Rule 60(b), Rules of Civil Procedure, thereby
8 incorporating the body of law associated with Rule 60(b) for
9 the benefit and guidance of bench, bar, and litigants.
10 However, the Bar proposes to merge paragraph (4) of Rule
11 60(b) (“the judgment is void”) into Rule 15(a)(3), to provide
12 as follows: “The judgment is void, including where the court
13 did not have jurisdiction to hear the case or where a party
14 did not receive proper notice or was not properly served.”

15 Petitioners agree to the recommended structural change the State Bar of
16 Arizona suggests for RPEA Rule 15(a).

- 17 2. The State Bar recommends the following regarding RPEA
18 Rule 15(c):

19 Mandatory Stay: In view of the minimal delay involved
20 (three court days), the State Bar supports the proposed
21 mandatory stay of an eviction judgment, order, or
22 proceeding “upon the filing of a post judgment motion
23 affecting possession, pending the court’s decision on the
24 motion within three court days.” The State Bar believes the
25 word “and” should be changed to “or” in “an eviction
26 judgment, order, and proceeding.” The Bar recommends that
27 the phrase “shall stay” be changed to “must stay” under
28 current restyling conventions.

29 Petitioners agree with the State Bar’s recommended refinements in the
30 proposed RPEA Rule 15(c) language.

- 31 3. The State Bar recommends the following regarding approval
32 of the Petition:

1 State Bar’s alternative proposal for an experimental pilot
2 program: If the Arizona Supreme Court has concerns about
3 implementation of the above rule amendments, the State Bar
4 recommends that the Court adopt the amendments for a
5 three-year trial period after which the amendments would be
6 assessed for their impact, positive or negative, on the
7 administration of justice in eviction cases.

8 The Arizona Supreme Court should permanently adopt the proposed changes
9 to RPEA Rule 15 in their entirety. However, if the Court is not so inclined, a pilot
10 program would be preferable to no change at all.

11 **VI. Conclusion**

12 Eviction litigants should have access to the same avenues for relief from
13 judgments, orders, and proceedings that are available to litigants in other civil
14 actions. The Court should protect the existing emergency procedures in RPEA
15 Rule 15 with a three-day stay aligned with trial courts’ emergency decision period.
16 For the above reasons, we respectfully request that the Court approve the Petition
17 to Amend Rule 15 of the Rules of Procedure for Eviction Actions, with the
18 refinements recommended by the State Bar of Arizona.

19 Respectfully submitted this 2nd day of June 2025.

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24 COMMUNITY LEGAL SERVICES
25 DNA PEOPLE’S LEGAL SERVICES
26 SOUTHERN ARIZONA LEGAL AID
27 WILLIAM E. MORRIS INSTITUTE FOR
28 JUSTICE

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this 2nd day of June 2025.

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