

Hon. C. Steven McMurry, on behalf of the
Committee on Limited Jurisdiction Courts
C/o Administrative Office of the Courts
1501 W. Washington St., Ste. 410
Phoenix, AZ 85007

IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)	Supreme Court No. R-13-0047
)	
PETITION TO ADOPT RULE 9.1, RULES OF PROCEDURE FOR EVICTION ACTIONS)	Comment from the LJC Opposing the Petition
)	

This comment is submitted on behalf of the Committee on Limited Jurisdiction Courts (the “LJC”), which authorized the undersigned committee member at its April 30, 2014 meeting to file a comment in opposition to this rule petition.

I. Introduction. The LJC opposes the proposed amendment because the amendment is impractical and unnecessary. Moreover, the amendment is not prudent because it would make it difficult for a number of justice courts to comply with statutory requirements and with this Court’s time standards.

II. The Proposed Rule Amendment Is Impractical and Unnecessary.
Undersigned’s courtroom is in a courthouse in central Phoenix. Five justice court

precincts share that location, which has a combined clerical area and a corridor of interconnected judicial chambers. In the past five years, these five urban courts have processed approximately 65,000 eviction cases. Each of those five judges will honor a change of judge in an eviction case, even though there is no current rule. No judge wants to hear a case in which his or her objectivity is in question, and in those infrequent cases in which a change of judge might be appropriate, a change of judge will occur without a rule, often at the initiation of the judge. The court accommodates a change of judge request by immediately transferring the matter to one of the other four judges in the building. The receiving judge of a transferred eviction action in the central Phoenix courthouse is typically able to address it quickly, and a change of judge does not result in a delay in this courthouse.

On the other hand, isolated rural courts cannot easily make similar accommodations to fulfill a change of judge request in an eviction action. It may be similarly difficult for stand-alone urban courts to readily accommodate a change of judge request. These courts do not have the luxury of having another judge or judges down the hallway. Court administration in stand-alone urban and rural justice of the peace courts will have to locate and arrange for a new judge. That could take days, and depending on the location, it might not happen quickly. A

change of judge request could quickly gain the perception of an easy way to delay an eviction proceeding.

III. The Proposed Rule Change is Not Prudent. The Arizona Judicial Council recently approved a time standard that requires 98% of eviction filings in justice courts to be resolved by a judgment or dismissal within ten days of filing. Unlike some of the other time standards, the eviction standard has not been controversial because it results directly from the requirements of Arizona law. An eviction case must be set for trial no less than six days from the date of filing (A.R.S. § 33-1377 (B).) The court can continue the case for an additional three days (A.R.S. § 12-1177(C).) Thus, the court must resolve the eviction case within nine days of filing.

If the Court adopts this proposal, resolution of an increased number of eviction actions within nine days will not be possible, at least for isolated rural courts, and most likely for stand-alone urban courts as well. This proposal, if adopted, could make it very difficult for some justice courts to be compliant with Arizona statutory requirements concerning evictions, or could make it difficult for justice courts to meet this Court's time standards for case disposition.

IV. Conclusion. The LJC includes justices of the peace from urban and rural jurisdictions across Arizona. The LJC believes that the State Bar may not have consulted any justice of the peace who is a State Bar member, or any attorney

who routinely represents plaintiffs in justice court evictions, prior to filing this rule petition. These stakeholders oppose the proposed rule change. This proposed rule change is unnecessary, impractical, and imprudent. The Court should decline to adopt it.

RESPECTFULLY SUBMITTED this 19th day of May, 2014

By /s/ _____
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Copy of this comment
Emailed this 19th day of
May 2014 to:

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