

Arizona Commission on the Access to Justice

Self-Represented Litigants: Limited Jurisdiction Court Work Group

Meeting Agenda

November 12, 2014 - 3:00 p.m. to 5:00 p.m.

State Courts Building ♦ 1501 West Washington ♦ Conference Room 119B ♦ Phoenix, Arizona

Conference call-in number: 602-452-3288 Access code: 8395

WebEx link: <https://arizonacourts.webex.com/arizonacourts/j.php?MTID=md4c50a914dd2b69d65a6332a0a64492d>

Improve access to the courts for self-represented individuals

1. **Call to Order** *Judge Rachel Carrillo*
2. **Introduction of members** *All*
3. **Forms/information** *Judge Carrillo and Mr. Paul Julien*
 - The understanding of the forms in Limited Jurisdiction Courts for forcible entry and detainer/eviction and orders of protection. Review all forms and make changes in order for those self-represented litigants can understand. Start with (5) day notice and Residential Eviction information sheet.
4. **Websites** *Judge Carrillo*
 - Review websites regarding information: Limited Jurisdiction Courts, Justice Courts and Municipal Courts have websites with a varying degree of information. What websites may be useful?
 - <http://justicecourts.maricopa.gov/HowTo/index.aspx>
 - <http://www.jp.pima.gov/EvictionActions.htm>
 - www.doctorevictor.com

The Chair may call items on this Agenda out of the indicated order. Please contact Kathy Sekardi (602) 452-3253 or Nickolas Olm (602) 452-3134 with any questions concerning this agenda. Persons with a disability may request reasonable accommodations by contacting Julie Graber at (602) 452-3250. Please make requests as early as possible to allow time to arrange accommodations.

- Maybe consider an informational video, to be posted on each court’s website or YouTube, about what the self-represented litigant can expect in justice court or in municipal court relative to housing/eviction cases and orders of protection.

5. **Legal clinic resources**..... *All*

- How we can utilize these legal services devoted to the Limited Jurisdiction Courts, Justice Courts, Municipal Courts?
- What information may be accessible regarding legal aid groups who may want to volunteer lawyers to help staff some of the clinics?

6. **Discussion**..... *All*

- Agenda for January 22, 2015 meeting:
 - The next Limited Jurisdiction Courts workgroup meeting is scheduled for January 22, 2015 from 3:00 p.m. to 5:00 p.m. in room 119B.
 - Plan on each group making a presentation as to what they are considering/working on, and any recommendations they have for the commission.
 - Allow for questions/exchange of information with the commission members, and any potential formal approval or other action by that group.

**NOTICE OF INTENT TO TERMINATE RENTAL AGREEMENT
FOR NON-PAYMENT OF RENT
(FIVE DAY NOTICE)**

From: Landlord: _____

To: _____
& Any/All Occupants
Apartment number or address: _____

Date: _____

Please be advised that the filing of an eviction lawsuit against you by the landlord is imminent because you have been in arrears on the payment of your rent for the above named premises. If legal action is instituted, not only is it likely that the court will award Judgment to the owner/management company for the above sum and order that you vacate the premise, but it is likely that you will be ordered to pay all court costs, attorney fees, and rental concessions. We would like to give you an opportunity to resolve this matter prior to the initiation of legal action. To do so, you must contact your property manager immediately and deliver the full sum due or sign a partial payment agreement if agreed to in writing by your landlord. Absent the above action, be advised that, pursuant to **A.R.S. 33-1368**, it is hereby demanded that you surrender the above-described premises or pay the entire amount owed within **FIVE days** from the date of this notice. Management expressly does not waive the right to bring an action against you for all unpaid rent from the date of your vacating the premises until such time as the property is re-rented or your fixed term lease expires, whichever comes first and any additional damages owed to the landlord pursuant to the lease. Please be further advised that your deposit may not be used for rent. The premises must be left in a clean and undamaged condition. You are liable for the full term if your lease and will be held to the full term of your lease or until the premises are re-rented. If you are on a month-to-month tenancy, then you are liable for all unpaid rent from the date you vacate the property and an additional thirty day period or the re-rent date, whichever comes first. Furthermore, you are also liable for any lease break fees and rental concessions.

AMOUNT OWED:

RENT: _____ FOR THE MONTH(S) OF _____

PREVIOUS BALANCE: _____

TAX: _____

LATE CHARGES: \$ _____ (CALCULATED AT \$ _____ PER DAY AS OF THE ____ OF THE MONTH WHICH WILL CONTINUE TO ACCRUE AT SAID RATE UNTIL PAID IN FULL)

OTHER: _____

TOTAL OWED AS OF THE DATE OF THIS NOTICE: \$ _____

THIS NOTICE IS SERVED BY: _____ DATE: _____
(Name of person serving the notice)

() Delivered in Hand to the Tenant or other occupant:

_____ (the name of the person who got the notice)

() Certified Mail -Receipt Number: _____

**NOTICE OF INTENTION TO TERMINATE FOR
MATERIAL BREACH OF RENTAL AGREEMENT**

TO: _____
& ANY/ALL OCCUPANTS

Please be advised that pursuant to **A.R.S. SEC. 33-1368(A)**, your rental agreement for the premises described above shall terminate ten (10) days from the date of your receipt, as defined by law, of this notice if you have not completely and permanently remedied the following defaults within the above time limits.

Explanation of Violations:

Your failure to comply in full with this notice will result in the termination of your right of possession, under your rental agreement, within ten (10) days from the date of your receipt, as defined by law, of this notice and the immediate filing if a special detainer action in which you additionally may be liable for accrued rent, late charges, all rental concessions and attorney fees, and costs and/or such other remedial action to which the owner or its representative may be entitled to by law. This notice and any action taken pursuant to it by the owner or its representative may not be construed as, and is not intended as, waiver of other rights or remedies or an election of remedies.

In the event you commit or permit the reoccurrence of defaults which are the same or similar to those defaults specified above during the term of your lease, your rental agreement will terminate within ten (10) days after delivery by owner or its representative of a written notice advising you of your second noncompliance, and owner and/or its representatives will be entitled to file a special detainer action and/or pursue any other remedies available under the law.

DATE:

BY:

() Hand Delivered this date: _____

() Certified Mail this date: _____

TEN DAY NOTICE OF INTENT TO TERMINATE RENTAL AGREEMENT FOR SECOND NON COMPLIANCE VIOLATION

DATE: _____

TO: _____
& ANY/ALL OCCUPANTS

Please be advised that pursuant to A.R.S. 33-1368A, your rental agreement dated _____ for the above described premises shall terminate TEN (10) days from the date of your receipt (as defined by law) of this notice for the reason that there has been a second non-compliance of the same or similar nature involving the previous notice to you dated _____.

The violation(s) is:

Your failure to comply in full with this notice will result in the filing of a Forcible Detainer Action against you to remove you from the premises. The Landlord may be entitled to all rent due and owing, plus attorney fees and costs. Furthermore, pursuant to A.R.S. 33-1375C, if your hold-over is considered intentional and not in good faith, the Landlord will request all appropriate damages pursuant to said statute, including repayment of all rental concession.

By: _____

() Hand Delivered this _____ day of _____, 20____

() Certified Mailed this _____ day of _____, 20____

IMMEDIATE TERMINATION NOTICE

To: _____
& Any/All Occupants

IT HAS COME TO MANAGEMENT'S ATTENTION that you, members of your family, or your guests have engaged in material and irreparable conduct in and about the premises, including the following:

Because of such conduct, please be advised that you have irreparably breached material provisions of your rental agreement and that Management has, pursuant to **A.R.S. SEC. 33-1368(A)**, terminated your right to possession under such agreement effective immediately. Demand is hereby made that you vacate your apartment immediately. Should you fail to do so, an eviction action will be commenced against you for recovery of possession and damages.

DATE: _____

BY: _____

() Hand Delivered this date: _____

() Certified Mail this date: _____

NOTICE OF INTENTION TO TERMINATE FOR MATERIAL BREACH OF RENTAL AGREEMENT-Health & Safety Violation

Date: _____

TO: _____
& ANY/ALL OCCUPANTS

Please be advised that pursuant to **A.R.S. SEC. 33-1368(A)**, your rental agreement, dated _____ for the premises described above, shall terminate five (5) days, for health and safety violation(s), from the date of your receipt, as defined by law, of this notice if you have not completely and permanently remedied the following defaults within the above time limits.

Explanation of Violations:

Your failure to comply in full with this notice will result in the termination of your right of possession, under your rental agreement, within five (5) days, for health and safety, from the date of your receipt, as defined by law, of this notice and the immediate filing of a special detainer action in which you additionally may be liable for accrued rent, late charges, all rental concessions and attorney fees, and costs and/or such other remedial action to which the owner or its representative may be entitled to by law. This notice and any action taken pursuant to it by the owner or its representative may not be construed as, and is not intended as, waiver of other rights or remedies or an election of remedies.

In the event you commit or permit the reoccurrence of defaults which are the same or similar to those defaults specified above during the term of your lease, your rental agreement will terminate within Ten (10) days after delivery by owner or its representative of a written notice advising you of your second noncompliance, and owner and/or its representatives will be entitled to file a special detainer action and/or pursue any other remedies available under the law.

BY:

() Hand Delivered this date: _____

() Certified Mail this date: _____

FIVE DAY NOTICE TO VACATE

TO: _____
& ANY/ALL OCCUPANTS

NOTICE IS GIVEN PURSUANT TO A.R.S. SEC. 12-1171 et. seq. that your occupancy is unauthorized. You have five (5) days from the date of this notice to vacate. If you fail to vacate as requested, legal action will be taken for possession of the property, fair rental value of the premises, court costs and attorney fees.

Dated: _____

By: _____

() **Hand Delivered this date:** _____

() **Certified Mail this date:** _____

NOTICE OF HOLDOVER

TO: _____

FROM: _____

DATE: _____

Your Landlord has either previously served you a notice not to renew your lease agreement or you have previously served your Landlord a notice not to renew your lease agreement. You have now indicated that you will not be moving on the termination date. The purpose of this notice is to inform you that if you fail to vacate on time you are considered a holdover tenant. As a holdover tenant, your Landlord will have no choice but to file an eviction action against you, requesting possession back of the property plus all damages under A.R.S. § 33-1375(C). These damages would be at a minimum, a request for rent for that month (even if you are there for only a few days), 2 months rent as statutory holdover damages, Attorney's fees, and Court costs. This may result in a Judgment against you that may impact your rental history and credit rating. The above statute does also allow your Landlord to ask for actual damages if the property has been rented to someone else and the actual damages exceed the two months. It is imperative that you vacate pursuant to the non-renewal notice to avoid any further legal action

By: _____

Title: _____

Hand delivered

Certified mail on this date: _____, 20____, to:

By: _____

**NOTICE OF INTENT TO TERMINATE FOR MATERIAL
AND IRREPARABLE BREACH OF RENTAL AGREEMENT
(FALSIFICATION OF APPLICATION OR LEASE)**

TO: _____
& ANY/ALL OCCUPANTS

DATE: _____

Please be advised that pursuant to A.R.S. 33-1368(A), your rental agreement dated _____ for the above described premises shall terminate ten (10) days from the date of your receipt, as defined by law, of this notice for the following reasons:

Please be advised that you must vacate at the end of the ten day period. Your failure to comply in full with this notice will result in the immediate filing of a special detainer action in which you additionally may be liable for accrued rent, late charges, rental concessions and attorney fees, and costs and/or such other remedial action to which the owner and/or its representatives may be entitled by law. This notice and any action taken pursuant to it by the owner or its representative may not be construed as, and is not intended as, a waiver of other rights or remedies or an election of remedies.

BY: _____

() Hand delivered this _____ day of _____, 20__

() Certified mailed this _____ day of _____, 20__

NON-WAIVER AGREEMENT

In consideration of my occupancy after _____, 20__ and the acceptance of my rent payment in the amount of \$_____, I _____ (Tenant) hereby agree that my landlord _____ (Landlord) has not waived any rights to proceed with an eviction under the _____(type of notice) notice dated _____, 20__ for an alleged breach of my lease by me for the following alleged violation(s): _____

I agree, that by allowing me to pay my rent and by accepting my avowal that the above said violation has been fully rectified by the date of the signing of this Non-Waiver, my landlord will wait to file any eviction action unless and until said violation occurs again without waiving any right to proceed or requiring any additional notice to me.

I understand and agree that Landlord does not waive its rights under the law or the Rental Agreement. I re-affirm my agreement to pay all future rent not later than the first of each month. I also understand and agree that I am currently in default of my Rental Agreement.

I understand that my failure to fully comply with any previous breach notice shall be grounds to immediately file for the appropriate type of eviction action. I understand that the premises are subject to a lock-out through a Writ of Restitution without further notification by the Landlord if this matter has already proceeded to Judgment.

Furthermore, I understand that, in consideration for being allowed to make a partial performance, this agreement shall waive the notice requirement of ARS 33-1368 and that any default will result in an eviction action. I understand I will be liable for late fees, attorney fees, court costs, lease break fees and rental concessions.

Tenant

Date

Landlord

Date

TRESPASSER NOTICE

To: _____

Date: _____

Pursuant to Arizona law, you are not authorized to be on the premises known as:

You are to remove yourself immediately from said premises and not return. You are prohibited from entry onto these premises. Should you be found on the premises at any time from this point forward, you will be removed as authorized by law. This notice is being given to you pursuant to **A.R.S. § 13-1501**, **A.R.S. § 13-1502** and **A.R.S. § 13-1504** and common law. Should Owner/Agent be required to have you removed, the Owner/Agent reserves the right to request all legal remedies available to them including payment of any attorney fees and court costs which may be incurred.

Hand-Delivered: this _____ day of _____, 20__.

By: _____

TEN DAY TERMINATION NOTICE FOR **WEEKLY RENTAL AGREEMENTS**

To: _____
& Any/All Occupants
Address: _____

PURSUANT TO ARIZONA REVISED STATUTES SECTION 33-1375(A), your rental agreement with _____ for the premises above will terminate ten (10) days from your next rental due date, which is _____. You must vacate by the following date _____.

Please remove yourself from the premises on or before that date. You are responsible to keep all rental payments current through the date listed above as your final move-out date. If you fail to vacate timely, your holdover may be considered willful and entitle the landlord to two months rent or actual damages, which ever is greater, pursuant to A.R.S. 33-1375(C). Once again, you are reminded to pay all rent as it becomes due as per your rental agreement. You may not use your security deposit or any other deposits paid by you towards the rent payment, unless there is a written document designating those deposits as last month's rent.

Date: _____

By: _____

Hand Delivered this ___ day of _____, 20__

Certified Mail this ___ day of _____, 20__

NOTICE OF NON-ACCEPTANCE OF PARTIAL PAYMENT

TO: _____

FROM: _____

DATE: _____

This letter is to inform you that the monies you attempted to tender on _____
_____ constitute a partial payment of your monthly rental amount. In accordance with A.R.S. § 33-1371, we do not accept partial payments of rent or cannot accept your partial payment because of other pending legal issues. Enclosed please find the return of your partial payment. Furthermore, if you have not previously been served, enclosed herewith is your 5-day notice for your failure to pay rent on a timely basis.

By: _____

Title: _____

Hand delivered

Certified mail on this date: _____, 20____, to:

By: _____

Five Day and Twelve Day Notice Letter

To. _____
(Name of Check Issuer/Passer)

Date:

You are hereby notified, pursuant to law, that the check or instrument shown or describe below, issued by you, has been dishonored.

Instrument/Check Number: _____

Instrument/Check Date:

Originating Institution, Bank or other Drawee:

Amount: _____

Payable to:

Reason for Dishonor:

(Marked on Instrument)

Pursuant to Arizona law, you have twelve (12) days from receipt of this notice to pay/tender to the holder named below the full amount of the check or the instrument, with all reasonable and protest fees. Unless this amount is paid in full within the time specified above, the holder of the dishonored check or instrument may: 1) turn it and all other available information relating to this incident to the County Attorney for criminal prosecution or 2) file suit and be entitled to twice the amount of your check plus attorney fees and court costs.

Please be advised that the filing of a lawsuit against you for Forcible Detainer by _____ (owner/management) is imminent because you have been arrears on rent in the amount of \$_____. As provided in your rental agreement, this sum includes late charges of \$_____ per _____, which will continue to accrue at that rate. Also, you are liable pursuant to your lease for a returned check charge of \$_____.

Further, pursuant to A.R.S. 33-1368(B), you are hereby notified that each day your rent continues to be delinquent, within a minimum of five (5) days from the date hereof, will, without further act or notice by management, result in the termination of your rental agreement as of this date: _____, or five (5) days after receipt of this notice. Management expressly does not waive the right to bring an action against you for all unpaid rent from the date you vacate the premises until such time as the property is re-rented or your fixed-term lease expires, whichever comes first, and for any lease break fees and rental concessions. You are given notice herein that you shall be liable for said sums.

DATED: _____ BY: _____

Hand Delivered this date: _____

Certified Mail this date: _____

Notice of Failure to Maintain

DATE: _____

TO: _____
& ANY/ALL OCCUPANTS

Please be advised that, pursuant to A.R.S. § 33-1369 of the Arizona Residential Landlord and Tenant Act, you are in non-compliance with your rental agreement. This non-compliance materially affects health and safety and can be remedied by repair, replacement of a damaged item or cleaning. You are hereby put on Notice, pursuant to A.R.S. § 33-1369, that if you fail to remedy the conditions as listed below within fourteen (14) days, or as promptly as conditions require in the case of an emergency, your Landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost, or the fair and reasonable value of those repairs. The cost of these repairs shall be additional rent and will be due and payable on your next rental due date. The items that need to be repaired or replaced are as follows:

Failure to comply with this Notice will result in your Landlord causing the repairs to be completed and assessing the cost to you as additional rent on your next rental due date.

By: _____

() Hand Delivered this _____ day of _____, 20____

() Certified Mailed this _____ day of _____, 20____

PARTIAL PAYMENT NON-WAIVER AGREEMENT AND PROMISSORY NOTE

In consideration of my occupancy after _____, 20____ (due date), I, _____, promise to pay _____ (“Landlord”) my unpaid rent in the amount of \$_____, payable as follows:
 \$_____ is payable immediately upon the signing of this Agreement.

Date Due	Amount/ Rent Due	Late Charges	Total (including tax)	Paid Thru Date	Resident initial when each payment is made

All Payments must be made in certified funds.

I understand and agree that “Landlord” does not waive its rights under the law or the Rental Agreement. I re-affirm my agreement to pay all future rent not later than the first (1st) of each month. I also understand and agree that I am currently in default of my Rental Agreement.

I understand that my failure to make any of the above stated payments on the past due rent owed will constitute a default of this Partial Payment Non-Waiver Agreement. I understand that I am subject to a Judgment (if no Judgment has been entered) and the premises is subject to a lock-out through a Writ Of Restitution without further notification by the Landlord if this matter has already proceeded to Judgment.

Furthermore, I understand that, in consideration for being allowed to make a partial payment, this agreement shall be deemed the five day notice requirement of ARS § 33-1368, receipt of which is hereby acknowledged. I understand I will be liable for late fees, attorney fees, court costs, lease break fees and rental concessions.

 Resident Name *Printed*

 Day-Time Phone #

 Resident’s *Signature*

 Date

 “Landlord” Representative

 Apartment # Date



PINAL COUNTY JUSTICE COURTS

**5-DAY NOTICE
NON-PAYMENT
OF RENT**

**INSTRUCTIONS
&
FORMS**

5 day notice For non-payment of rent A.R.S. § 33-1368(B)

USE: When a tenant fails to pay rent or other charges due and owing under a lease or rental agreement (oral or written).

WHEN: A 5-day notice can be given any time after rent and/or other charges are in arrears.

- ✓ If a payment is made by the tenant of all overdue charges within the 5-day period, the rental payment is deemed reinstated.
- ✓ If the tenant fails to pay by the end of the 5-day period, a forcible detainer action can be filed with the court on the 6th day.
- ✓ Acceptance of partial payment by the landlord is deemed a waiver of the right to terminate for non-payment of rent unless otherwise agreed (landlord shall have the tenant sign an *Acceptance of partial payment and non-waiver agreement form*). **A.R.S. § 13-1371(B)**
- ✓ Variation: Suppose a \$400.00 monthly payment of rent is due and owing on the 1st day of each month. On the 2nd day of the month the tenant makes a partial payment in the amount of \$200.00. If the landlord accepts this partial payment- rent is now paid through the 15th of the month. Although the remaining ½ of the month's rent is still due and owing, because the partial payment has been accepted, a 5-day notice cannot be given until the rent is once again in arrears (i.e. on the 16th day of the month, or thereafter). *This example is given only for illustrative purposes, and obviously, the dates and amount may vary.* **A.R.S. § 1371(B)**

EFFECTIVE DATES OF NOTICE, A.R.S. § 33-1313

CERTIFIED MAIL. When the notice is sent by certified mail it becomes effective on the date the notice is actually received by the tenant or five days after the date the notice is mailed, whichever occurs first. A five day notice sent by certified mail becomes a 10 day notice (5 + 5). The forcible detainer complaint can be filed with the court on the 11th day.

PERSONAL DELIVERY. The hand-delivered notice becomes effective when received by the tenant. The forcible detainer complaint can be filed with the court on the 6th day.

Any step reasonably calculated to inform a person (whether or not the other actually comes to know of it) may be considered proper notice.

Notices taped to the tenant's door are not considered as proper notice.

For the purpose of this section "days" are calendar days. When filing a forcible detainer action, please bring a copy of your notice to the court.

Please refer to the ARIZONA RESIDENTIAL LANDLORD & TENANT ACT for complete details.

5-DAY NOTICE

NON-PAYMENT of RENT TERMINATION of TENANCY DEMAND for POSSESSION

Tenant: _____

Address: _____

Apt. No. _____

Date: _____

Your rent from _____ to _____ is past due and unpaid. Pursuant to **A.R.S. § 33-1368(b)**, you are hereby notified that if you fail to pay your rent in the amount of \$_____ in full on or before _____ your tenancy will be terminated. If the rent is paid in full then your rental agreement will remain in effect. If the rent is not paid in full on or before _____, then pursuant to **A.R.S. § 12-1173**, I demand that you vacate the premises and surrender possession to me on or before _____. If you fail to comply with the above, I will institute legal action for forcible detainer.

Owner/Owner's Agent

Phone

ACCEPTANCE OF PARTIAL PAYMENT and NON-WAIVER AGREEMENT

To: _____
 Owner/Owner's agent

Re: _____

Address: _____

Apt. No. _____

Date: _____

I/We acknowledge that rent was due and payable on _____, and is now in default in the total amount of \$_____. I/We ask to pay this amount in the following manner:

Amount \$	Date Due:	Comment: 1 st partial payment
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I/We understand that the total amount must be paid in full prior to the date of any forcible detainer hearing now scheduled.

In accordance with **A.R.S. § 33-1371**, it is hereby understood and agreed that by acceptance of any partial payment, management does not waive its right under law of the rental agreement. I/We understand and agree that failure to pay any of the amounts stated herein by the date so specified shall cause the total amount to become immediately due and payable in full and also entitle management to continue or immediately commence legal proceedings, through forcible detainer action, without further demand.

 Resident

 Resident

Received this _____ day of _____, 20_____.

By: _____
 Owner/Owner's Agent