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IN THE SUPREME COURT

STATE OF ARIZONA

PETITION TO AMEND)
RULE 102 AND MODIFY) Supreme Court No. R-
RULE 101(b), JUSTICE COURT)
RULES OF CIVIL PROCEDURE)
_____)

Petitioner moves to amend the Justice Court Rules of Civil Procedure to specifically require a judgment creditor to file a satisfaction of judgment and, in those instances when a judgment creditor has failed to do so, to provide a procedure for the court to deem a judgment satisfied.

I. Background

Individuals may have difficulty clearing their credit history through no fault of their own. Due to the large number of self-represented litigants in justice courts, it is common that a successful litigant fails to file a satisfaction of judgment after the judgment has been paid off. This oversight often can be corrected when the litigants are still available. In many

instances, however, the oversight is not recognized until several years have passed and the judgment creditor may have moved. In these situations, a knowledgeable judgment debtor may seek relief from the judgment under Rule 141(c)(5), JCRCP, which is analogous to Rule 60(b)(5).

A more clearly stated solution for the litigants and the courts is already found in Rule 4(d) of the Rules of Procedure for Eviction Actions, which reads:

d. Satisfaction of Judgments. Once a judgment has been satisfied by the payment of the monetary award, or the parties have entered into a new rental agreement or created a novation of the prior rental agreement, the party in whose favor the judgment was entered shall file a Satisfaction of Judgment with the court that entered it and serve a copy on the judgment debtor. The duty to file the satisfaction of judgment is on the prevailing party and not on the attorney who represented the party. In the event that a prevailing party fails to satisfy a judgment rendered and cannot be located with a showing of reasonable diligence, the judgment debtor may file a motion to compel satisfaction of judgment and the court may, after an opportunity for a hearing, order that the judgment shall be deemed satisfied.

Similar language should be added to the Justice Court Rules of Civil Procedure.

II. Content of the Proposed Amendment

Petitioner requests that Rule 102, JCRCP, be amended to add an additional subpart as follows:

e. Satisfaction of Judgments. Once a judgment has been satisfied by the payment of the monetary award, the party in whose favor the judgment was entered shall file a Satisfaction of Judgment with the court that entered it and serve a copy on the judgment debtor. The duty to file the satisfaction of judgment is on the prevailing party and not on the attorney who represented the party. In the event that a prevailing party fails to satisfy a judgment rendered and cannot be located with a showing of reasonable diligence, the judgment debtor may file a motion to compel satisfaction of judgment and the court may, after an opportunity for a hearing, order that the judgment shall be deemed satisfied.

Petitioner also requests the following modification to Rule 101(b), JCRCP, in order to clarify that the amendment above applies to small claims cases:

Rule 101(b). ***Application of these rules.*** *These rules apply to civil lawsuits in justice courts in Arizona. These rules do not apply to evictions, civil traffic or civil boating proceedings, or to protective orders or injunctions against harassment in justice courts. Rule 102(e) concerning satisfaction of judgments, Rule 113(i) concerning*

dismissal because of lack of service, and Rule 140 regarding entry of default judgments apply in small claims cases. [ARCP 1]”

III. Conclusion

Petitioner requests the Court to consider adoption of this amendment, with the inclusion of a public comment period. The proposed amendment appears to be more technical than substantive, meriting its consideration in the rule amendment process, rather than via legislative action.

RESPECTFULLY SUBMITTED this 31st day of December, 2018.

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By: /s/ James R. Morrow