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IN THE SUPREME COURT

STATE OF ARIZONA

PETITION TO AMEND)
RULE 144(e), JUSTICE COURT) Supreme Court No. R-
RULES OF CIVIL PROCEDURE)
_____)

Petitioner moves to amend Justice Court Rules of Civil Procedure Rule 144(e) to allow Justice Courts to accelerate the timelines of “dismissals for failure to conclude a lawsuit within ten months” by 30 days. This proposed rule change will facilitate Arizona Justice Courts’ compliance with Arizona Office of Courts’ time standards and timelier disposition of cases.

I. Background

The Arizona Office of Courts’ time standard for Justice Court Civil cases mandates that 98% of cases be adjudicated within 365 days of filing. On its face, this standard seems reasonable, as these cases involve amounts in controversy of \$10,000 and less; additionally, litigants engaged in these types of cases deserve to

have their cases adjudicated quickly. However, the current Justice Court rule governing “dismissal for failure to conclude a lawsuit” frustrates the realization of these goals. In fact, in Maricopa County, the largest jurisdiction of Justice Courts in the State, only 3 of the 26 Justice Courts met the time standard for the 3rd Quarter of Fiscal Year 2019.

JCRCP 144(e) states the following:

e. Dismissal for failure to conclude a lawsuit within ten months. If a final judgment has not been entered within ten (10) months from the date a lawsuit is filed, or if a party has not filed a written motion to extend the time for entry of judgment to a particular date, the court will mail a notice to the plaintiff and to any defendant who has appeared in the lawsuit informing them that unless this requirement is met within two (2) months from the date of mailing, the court will dismiss the lawsuit for failure to have judgment timely entered. If the requirement has not been met within two (2) months from the mailing of the court's notice, the court may dismiss the lawsuit without further notice to the parties. [ARCP 38.1(d), 41(b)]

The current Rule allows a Court to send a notice at 10 months stating that the matter will be dismissed in 2 months if the matter is not adjudicated. While this Rule appears to facilitate the resolution of all matters within or at 365 days, the practical application falls short of accomplishing this objective.

The Rule provides insufficient allowances for Courts to timely process the notice and for the Judge to dismiss the case and remain under the 365 day deadline. For example, if the ten month deadline falls on a weekend or the Court waits a couple of extra days after the 10 month deadline to mail the notice, then more than 365 days can easily pass before a case is adjudicated. Furthermore, if the additional

two month deadline falls on a weekend, or if the Court staff or Judge do not immediately process and sign the notice of dismissal, the 365 day deadline will be exceeded. The current AOC time standard of 98% for civil cases at 365 days and corresponding JCRC Rule are not aligned. Under the current Rule, litigants are also left with uncertainty as to the resolution of their case for up to and over a year from the date of filing.

Under JCRC 144(e), Parties are not receiving timely adjudication of their cases and AOC time standards are not met. To ensure timely justice and compliance with the AOC time standards, the timeframe for dismissing lawsuits should be shortened under the Justice Court Rules of Civil Procedure.

II. Content of the Proposed Amendment

Petitioner requests the following modification to Rule 144(e), JCRC (proposed changes are italicized and underlined):

e. Dismissal for failure to conclude a lawsuit within nine months. If a final judgment has not been entered within nine (9) months from the date a lawsuit is filed, or if a party has not filed a written motion to extend the time for entry of judgment to a particular date, the court will mail a notice to the plaintiff and to any defendant who has appeared in the lawsuit informing them that unless this requirement is met within two (2) months from the date of mailing, the court will dismiss the lawsuit for failure to have judgment timely entered. If the requirement has not been met within two (2) months from the mailing of the court's notice, the court may dismiss the lawsuit without further notice to the parties. [**ARCP 38.1(d), 41(b)**]

Some might argue that exceptional cases may require more time for adjudication than the 11 months provided for by the above rule. However, the Rule

provides for both a notice and the opportunity for a party to file a motion to have the time to enter judgment extended. Ultimately, reducing the timeframe to dismiss civil cases in justice court by 30 days, as proposed by this amendment, would allow for a speedier disposition of litigants' cases and would result in far greater compliance of Justice Courts with AOC time standards.

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 20th day of September, 2019.

/s/ Andrew K. Hettinger
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By: /s/ Andrew K. Hettinger

<https://www.azcourts.gov/Rules-Forum/aff/144>

144(e) Justice Court Rules of Civil Procedure

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