

2. CLS PROJECT

Arizona Commission on Access to Justice

Meeting Date: November 9, 2016	Type of Action Requested: <input checked="" type="checkbox"/> Formal action or request <input type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Community Legal Services Justice Court Project
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From: Pamela Bridge

Presenters: (same)

Discussion: Ms. Bridge will report on the creation and use of tenant information forms during the recent Community Legal Services Justice Court Project. She will raise the issue of whether these forms could be further improved through evaluation and revision by an ACAJ workgroup and later posted on the AZCourtHelp.org virtual legal information website.

Recommended motion: To support the evaluation and revision of tenant information forms by an ACAJ workgroup, as presented.

Summer Justice Training Agenda

May 26, 2016

8:00 – 8:30 students arrive. Informal meet and greet. (do we want to get some granola bars and water bottles?) Complete any missing forms (applications, confidentiality agreements, etc.)

8:30 – walk down to courts

9:00 – watch atty represented FEDs – We are going to fill up more than the jury box. Probably 13- 15 people.

10:00 – watch pro per calendar

11:00 - ? tour and talk to JPs (this is really up to the court)

Lunch

1:00 to 3:30 – Bret and Zac LLT training
Pam - ethics

3:30 – 4:00 – finalize coverage schedule.

End

Date: _____

Courtroom: _____

Session start time: _____

Session end time: _____

Number of default judgments: (Hash marks in the box below are enough. If a defendant appears, there will not be a default judgment; for those, use more detailed account [see next page] for each case.

Default Judgments:

For any immediate and irreparable default judgment – did the court hear evidence before giving judgment?

Stipulated Judgments:

Cases Voluntarily Dismissed:

Case identifiers—such as Plaintiff, Defendant, property name, case number. Whatever you can capture.

Parties

Is Defendant represented by an attorney? Y N Is Plaintiff represented by an attorney? Y N

Was there any indication made that the Defendant’s housing is subsidized (Section 8, etc.)? Y N

Did landlord provide proper notice? Y N

Did Court review/discuss service of process? Y N

Grounds (Circle any that apply.)

What are the grounds the Plaintiff asserts for seeking the eviction?

- Property damage Nonpayment of rent (Other) breach of the lease agreement
- Material breach Immediate Termination

Courthouse assistance indicators

Did the Defendant raise any counterclaims or defenses? Y N
(examples include partial payment of rent, condition of the property, etc.)

Was the Defendant holding onto, or referring to, one of CLS’ information sheets? Y N

Outcomes (Circle any that apply.)

The Parties reached an agreement or stipulated judgment before the Judge called the case.

The Court issued a judgment today. Trial Initial return

The Court set a date in the future for a trial in this case.

The Court dismissed the eviction action.

Comments

Free Eviction Information For Tenants

Non-payment of Rent

A.R.S. § 33-1368(B)

The following does not apply to mobile home park evictions, recreational vehicle park evictions, and certain subsidized housing. Below is information that may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in eviction actions. A.R.S. means Arizona Revised Statutes and RPEA means Rules of Procedure for Eviction Actions.

Notice	<ul style="list-style-type: none">• Your landlord must give you written notice that your rent is unpaid and that your rental agreement will terminate if rent is not paid in 5 days. A.R.S. § 33-1368(B).• In an action for non-payment of rent, landlord cannot file the eviction action until after the final day of the notice.• If you did not receive a termination notice and a chance to pay the rent and late fees, or the notice does not comply with the law or was not properly served, the court must dismiss the eviction action. RPEA 13(a)(2).
Service	<ul style="list-style-type: none">• Generally, an eviction action summons and complaint must be served on you in one of two ways; 1) personally served on you, or 2) posted in an obvious place and mailed to you by certified mail. RPEA 5(f).
Answer	<ul style="list-style-type: none">• You may file a written answer or answer orally in open court on the record. If the court sets a trial date, you may be ordered to file a written answer. RPEA 7. If you cannot afford the filing fee, ask the clerk for a fee waiver/deferral application in order to not have to pay the fee when you file.
Reinstating the Rental Agreement	<ul style="list-style-type: none">• If the eviction is only for non-payment of rent, the rental agreement will be reinstated if you pay all past due rent, late fees that appear in a written rental agreement, attorney fees, and court costs before judgment is entered. A.R.S. § 33-1368(B).
Defenses	<ul style="list-style-type: none">• You paid your rent in full and on time (provide proof of payment to the court).• Your landlord accepted rent, or a portion of rent with knowledge of a default by you and did not obtain a writing signed by you at the time of accepting rent informing you of the terms/conditions of accepting the rent. A.R.S. § 33-1371, RPEA 13(a)(4).• You made repairs to the unit after notifying landlord that you would do so at his expense, gave your landlord an opportunity to make repairs, you hired a licensed contractor to perform the work, you provided a lien waiver signed by the contractor and list of work performed to your landlord, and subtracted the actual and reasonable costs of the work from the rent due (up to \$300.00 or half your monthly rent, whichever is greater). A.R.S. § 33-1363.

	<ul style="list-style-type: none"> • You don't pay rent or pay less than what your landlord is claiming because you are in subsidized housing – see separate document related to subsidized housing (Section 8, tax credit, etc.).
Trial	<ul style="list-style-type: none"> • You have a right to a trial if the court determines that you MAY have a defense or proper counterclaim. RPEA 11(b)(1). • You have a right to a jury trial, but you must ask for it the first time you see the judge. The judge will then decide if there are factual matters to be determined by a jury. If there are no factual matters appropriate for a jury, the case will be heard by the judge. RPEA 11(d).
Evidence/ Testimony	<ul style="list-style-type: none"> • Evidence and testimony must be relevant to the proceeding. • A witness must testify from personal knowledge – the witness telling the court what somebody else told the witness is generally not allowed. • You have a duty to make timely objections. If a witness testifies to a fact he or she does not have personal knowledge of or the testimony is not relevant to the proceeding, immediately tell the judge you object to the testimony or evidence.
Judgment	<ul style="list-style-type: none"> • Default judgment will be entered against you if you are not present in the court when your case is called by the judge. RPEA 13. • Stipulated judgment – you are agreeing that the allegations in the complaint are true and judgment will be entered against you. You will not have an opportunity to offer a defense and cannot appeal from this type of judgment. • The judge may award your landlord possession of the property plus rent, late fees (if there is a written rental agreement), attorney fees, court costs, and other damages if there is a legal and factual basis to award these damages. • See separate document related to judgments for important information if the judge rules against you.

Material Breach of the Rental Agreement (10-day notice)

A.R.S. § 33-1368(A)

The following does not apply to mobile home park evictions, recreational vehicle park evictions, and certain subsidized housing. Below is information that may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in eviction actions. A.R.S. means Arizona Revised Statutes and RPEA means Rules of Procedure for Eviction Actions.

Notice	<ul style="list-style-type: none"> • Your landlord must give you a written notice stating what the problem(s) is/are and that your rental agreement will terminate after 10 days if the problem(s) is/are not remedied in 10 days. A.R.S. § 33-1368(A). • In an action for material breach of the rental agreement, your landlord cannot file the eviction action until after the 10 days stated in the notice (at least 11 days after you receive the notice). • If you did not receive a termination notice and an opportunity to fix the problem(s), or the notice does not comply with the law or was not properly served, the court must dismiss the eviction action. RPEA 13(a)(2). • If you fixed the problem(s) identified in a 10-notice, and there is a second 10-day notice claiming problems of the same or similar nature in the same rental agreement period, your landlord may give you a second 10-day notice and then file an eviction action if you remain in the rental unit after the 10th day. Even if you fix the problems specified in the second notice, your landlord can still file the eviction action.
Service	<ul style="list-style-type: none"> • Generally, an eviction action summons and complaint must be served on you in one of two ways; 1) personally served on you, or 2) posted in an obvious place and mailed to you by certified mail. RPEA 5(f).
Answer	<ul style="list-style-type: none"> • You may file a written answer or answer orally in open court on the record. If the court sets a trial date, you may be ordered to file a written answer. RPEA 7. If you cannot afford the filing fee, ask the clerk for a fee waiver/deferral application in order to not pay the fee when you file.
Defenses	<ul style="list-style-type: none"> • Problems stated in the notice and complaint did not occur. • If there was a time period for you to fix the problem(s) specified in the notice, you fixed the problem(s) on or before the final day of the 10-day notice. • Your landlord accepted rent, or a portion of rent with knowledge of an alleged violation by you and did not obtain a writing signed by you at the time of accepting rent informing you of the terms/conditions of accepting the rent. A.R.S. § 33-1371, RPEA 13(a)(4). • Retaliation – If you complained to the landlord or a government agency charged with

	<p>code enforcement about habitability issues materially affecting health and safety within 6 months prior to the eviction being filed, there is a presumption that the eviction is retaliatory. You may be entitled to damages if this happened. See separate form on counterclaims. A.R.S. § § 33-1381.</p>
Trial	<ul style="list-style-type: none"> • You have a right to a trial if the court determines that you MAY have a defense or proper counterclaim. RPEA 11(b)(1). • You have a right to a jury trial, but you must ask for it the first time you see the judge. The judge will then decide if there are factual matters to be determined by a jury. If there are no factual matters appropriate for a jury, the case will be heard by the judge. RPEA 11(d).
Evidence/ Testimony	<ul style="list-style-type: none"> • Evidence and testimony must be relevant to the proceeding. • A witness must testify from personal knowledge – the witness telling the court what somebody else told the witness is generally not allowed. • You have a duty to make timely objections. If a witness testifies to a fact he or she does not have personal knowledge of or the testimony is not relevant to the proceeding, immediately tell the judge you object to the testimony or evidence.
Judgment	<ul style="list-style-type: none"> • Default judgment will be entered against you if you are not present in the court when your case is called by the judge. RPEA 13. • Stipulated judgment – you are agreeing that the allegations in the complaint are true and judgment will be entered against you. You will not have an opportunity to offer a defense and cannot appeal from this type of judgment. • The judge may award your landlord possession of the property plus rent, late fees (if there is a written rental agreement), attorney fees, court costs, and other damages if there is a legal and factual basis to award these damages. • See separate document related to judgments for important information if the judge rules against you.

Material Breach of the Rental Agreement (Immediate and Irreparable)

A.R.S. § 33-1368(A)

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<p>Notice</p>	<ul style="list-style-type: none"> • Your landlord must give you written notice if his intent to immediately terminate your rental agreement. • Your landlord can file the eviction action the same day you receive the notice of immediate termination. • If you did not receive a termination notice, the notice does not comply with the law, or was not properly served, the court must dismiss the eviction action. RPEA 13(a)(2). • <i>If the acts alleged in the eviction action concern <u>criminal activity</u>, anything you say or present at the eviction hearing may be used against you in a criminal case.</i>
<p>Service</p>	<ul style="list-style-type: none"> • Generally, an eviction action summons and complaint must be served on you in one of two ways; 1) personally served on you, or 2) posted in an obvious place and mailed to you by certified mail. RPEA 5(f).
<p>Answer</p>	<ul style="list-style-type: none"> • You may file a written answer or answer orally in open court on the record. If the court sets a trial date, you may be ordered to file a written answer. RPEA 7. If you cannot afford the filing fee, ask the clerk for a fee waiver/deferral application to not have to pay when you file.
<p>Defenses</p>	<ul style="list-style-type: none"> • The conduct your landlord claims you or one of your guests never happened or happened off the property. • Your landlord accepted rent, or a portion of rent with knowledge of a default by you and did not obtain a writing signed by you at the time of accepting rent informing you of the terms/conditions of accepting the rent. A.R.S. § 33-1371, RPEA 13(a)(4). • Retaliation – If you complained to the landlord or a government agency charged with code enforcement about habitability issues materially affecting health and safety within 6 months prior to the eviction being filed, there is a presumption that the eviction is retaliatory. You may be entitled to damages if this happened. See separate form on counterclaims. A.R.S. § § 33-1381. • You are generally responsible for the conduct of your guests that violates the rental agreement, but only if you could reasonably be expected to be aware that

	such actions might occur and you did not attempt to prevent those actions to the best of your ability. A.R.S. § 33-1368(G).
Trial	<ul style="list-style-type: none"> • You have a right to a trial if the court determines that you MAY have a defense or proper counterclaim. RPEA 11(b)(1). • You have a right to a jury trial, but you must ask for it the first time you see the judge. The judge will then decide if there are factual matters to be determined by a jury. If there are no factual matters appropriate for a jury, the case will be heard by the judge. RPEA 11(d).
Evidence/ Testimony	<ul style="list-style-type: none"> • Evidence and testimony must be relevant to the proceeding. • A witness must testify from personal knowledge – the witness telling the court what somebody else told the witness is generally not allowed. • You have a duty to make timely objections. If a witness testifies to a fact he or she does not have personal knowledge of or the testimony is not relevant to the proceeding, immediately tell the judge you object to the testimony or evidence.
Judgment	<ul style="list-style-type: none"> • Default judgment will be entered against you if you are not present in the court when your case is called by the judge. RPEA 13. • Stipulated judgment – you are agreeing that the allegations in the complaint are true and judgment will be entered against you. You will not have an opportunity to offer a defense and cannot appeal from this type of judgment. • The judge may award your landlord possession of the property plus rent, late fees (if there is a written rental agreement), attorney fees, court costs, and other damages if there is a legal and factual basis to award these damages. • See separate document related to judgments for important information if the judge rules against you.

Material Breach of the Rental Agreement (5-day Notice for Health and Safety)

A.R.S. § 33-1368(A)

The following does not apply to mobile home park evictions, recreational vehicle park evictions, and certain subsidized housing. Below is information that may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in eviction actions. A.R.S. means Arizona Revised Statutes and RPEA means Rules of Procedure for Eviction Actions.

Notice	<ul style="list-style-type: none"> • Your landlord must give you a written notice stating what the problem is and that the rental agreement will terminate after 5 days if the problem is not fixed in 5 days. A.R.S. § 33-1368(A). • In an action for material breach of the rental agreement materially affecting health and safety, your landlord cannot file the eviction with the court action until after the 5 days specified in the notice is up (at least 6 days after you receive the notice). • If you did not receive a termination notice and an opportunity to fix the problem(s), or the notice does not comply with the law or was not properly served, the court must dismiss the eviction action. RPEA 13(a)(2). • If you fixed the problem(s) identified in a 5-day notice, and there is a second 5-day notice claiming problems of the same or similar nature in the same rental agreement period, your landlord may give you a second 5-day notice and then file an eviction action if you remain in the rental unit after the 5th day. Even if you fix the problems specified in the second notice, your landlord can still file the eviction action.
Service	<ul style="list-style-type: none"> • Generally, an eviction action summons and complaint must be served on you in one of two ways; 1) personally served on you, or 2) posted in an obvious place and mailed to you by certified mail. RPEA 5(f).
Answer	<ul style="list-style-type: none"> • You may file a written answer or answer orally in open court on the record. If the court sets a trial date, you may be ordered to file a written answer. RPEA 7. If you cannot afford the filing fee, ask the clerk for a fee waiver/deferral application in order to not pay the fee when you file.
Defenses	<ul style="list-style-type: none"> • Problems claimed in the notice and complaint did not occur. • If there was a time period for you to fix the problem(s) specified in the notice, you fixed the problem(s) before the final day of the 5-day notice. • Your landlord accepted rent, or a portion of rent with knowledge of an alleged violation by you and did not obtain a writing signed by you at the time of accepting rent informing you of the terms/conditions of accepting the rent. A.R.S. § 33-1371, RPEA 13(a)(4).

	<ul style="list-style-type: none"> • Retaliation – If you complained to your landlord or a government agency charged with code enforcement about habitability issues materially affecting health and safety within 6 months prior to the eviction being filed, there is a presumption that the eviction is retaliatory. You may be entitled to damages if this happened. See separate document on counterclaims. A.R.S. § § 33-1381.
Trial	<ul style="list-style-type: none"> • You have a right to a trial if the court determines that you MAY have a defense or proper counterclaim. RPEA 11(b)(1). • You have a right to a jury trial, but you must ask for it the first time you see the judge. The judge will then decide if there are factual matters to be determined by a jury. If there are no factual matters appropriate for a jury, the case will be heard by the judge. RPEA 11(d).
Evidence/ Testimony	<ul style="list-style-type: none"> • Evidence and testimony (documents and statements) must be relevant to the proceeding. • A witness must testify from personal knowledge – the witness telling the court what somebody else told the witness is generally not allowed. • You have a duty to make timely objections. If a witness testifies to a fact he or she does not have personal knowledge of or if the testimony is not relevant to the proceeding, immediately tell the judge you object to the testimony or evidence.
Judgment	<ul style="list-style-type: none"> • A default judgment will be entered against you if you are not present in the court when your case is called by the judge. RPEA 13. • Stipulated judgment – you are agreeing that the allegations in the complaint are true and judgment will be entered against you. You will not have an opportunity to offer a defense and cannot appeal from this type of judgment. • The judge may award your landlord possession of the property plus rent, late fees (if there is a written rental agreement), attorney fees, court costs, and other damages if there is a legal and factual basis to award these damages. • See separate document related to judgments for important information if the judge rules against you.

Mobile Home Park Evictions

The following applies to mobile home park evictions where you own the mobile home and rent the lot your home sits on. The information below may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in eviction actions. A.R.S. means Arizona Revised Statutes and RPEA means Rules of Procedure for Eviction Actions.

Notice	<ul style="list-style-type: none"> • Your landlord may not terminate or refuse to renew your space rental agreement without good cause—“good cause” means: <ol style="list-style-type: none"> 1. Noncompliance with the rental agreement 2. Nonpayment of rent 3. Change in use of land 4. Clear and convincing evidence that you have repeatedly violated the Mobile Home Parks Residential Landlord and Tenant Act. A.R.S. § 33-1476(B). • Material noncompliance with the rental agreement – if your landlord thinks you have broken the rental agreement, he must give you a written notice identifying the problems and inform you that the rental agreement will terminate in 30 or more days if you have not fixed the problems in 14 days. • Material noncompliance with the rental agreement affecting health and safety – If your landlord thinks you have broken the rental agreement and the problems materially affect health and safety, he must give you a written notice identifying the problems and inform you that the rental agreement will terminate in 20 or more days if you have not fixed the problems in 10 days. • Immediate Termination – If your landlord thinks you have broken the rental agreement and that the problem is both material and irreparable, and happened on the premises, your landlord can give you a notice for immediate termination of the rental agreement and file the an eviction action the same day. • Nonpayment of rent – Your landlord must give you written notice that your rent is unpaid and that your rental agreement will terminate if rent is not paid in 7 days. • If you did not receive a termination notice and a chance to pay the rent and late fees, or the notice does not comply with the law or was not properly served, the court must dismiss the eviction action. RPEA 13(a)(2).
Service	<ul style="list-style-type: none"> • Generally, an eviction action summons and complaint must be served on you in one of two ways; 1) personally served on you, or 2) posted in an obvious place and mailed to you by certified mail. RPEA 5(f).
Answer	<ul style="list-style-type: none"> • You may file a written answer or answer orally in open court on the record. If the court sets a trial date, you may be ordered to file a written answer. RPEA 7. If you cannot afford the filing fee, ask the clerk for a fee waiver/deferral application in order to not have to pay the filing fee when filing.

Reinstating the rental agreement	<ul style="list-style-type: none"> • If the eviction is only for non-payment of rent, the rental agreement will be reinstated if you pay all past due rent, attorney fees, and court costs <u>before judgment is entered</u>. A.R.S. § 33-1476(E).
Defenses	<ul style="list-style-type: none"> • You paid your rent in full and on time (provide proof of payment to the court). • The problems claimed in the notice and complaint never happened or happened off the property. • Retaliation – If you complained to the landlord or a government agency charged with code enforcement about habitability issues materially affecting health and safety within 6 months prior to the eviction being filed, there is a presumption that the eviction is retaliatory. You may be entitled to damages if this happened. See separate form on counterclaims. A.R.S. § § 33-1491.
Trial	<ul style="list-style-type: none"> • You have a right to a trial if the court determines that you MAY have a defense or proper counterclaim. RPEA 11(b)(1). • You have a right to a jury trial, but you must ask for it the first time you see the judge. The judge will then decide if there are factual matters to be determined by a jury. If there are no factual matters appropriate for a jury, the case will be heard by the judge. RPEA 11(d).
Evidence/ Testimony	<ul style="list-style-type: none"> • Evidence and testimony must be relevant to the proceeding. • A witness must testify from personal knowledge – the witness telling the court what somebody else told the witness is generally not allowed. • You have a duty to make timely objections. If a witness testifies to a fact he or she does not have personal knowledge of or the testimony is not relevant to the proceeding, immediately tell the judge you object to the testimony or evidence.
Judgment	<ul style="list-style-type: none"> • Default judgment will be entered against you if you are not present in the court when your case is called by the judge. RPEA 13. • Stipulated judgment – you are agreeing that the allegations in the complaint are true and judgment will be entered against you. You will not be able to offer a defense and cannot appeal from this type of judgment.
After Judgment	<ul style="list-style-type: none"> • See separate document related to post-judgment activities for discussion on writs of restitution. • A sheriff or constable can execute a writ of restitution by removing all occupants and their possessions from the mobile home. A.R.S. § 14-1481(B). • After removing the occupants and their possessions from the mobile home, the mobile home is deemed abandoned. • You cannot move your mobile home from mobile home space until you get a signed agreement from the mobile home park. This agreement must show clearance (the mobile home park's permission) for removal and that all monies due and owing have been paid. You can also reach some other agreement with the landlord. A.R.S. 33-1478(A)

Section 8 Information Sheet

A.R.S. § 33-1368(A)

The following applies to Housing Choice Vouchers (“Section 8 Vouchers”). Below is information that may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in regarding Section 8 Vouchers. C.F.R. means Code of Federal Regulations.

<p>Tenant’s Portion of the Rent</p>	<ul style="list-style-type: none"> • An individual or family with a Section 8 voucher is only responsible for their portion of the rent. 24 C.F.R. 982.310(b)(1). • A landlord may not demand from the tenant more than the tenant’s portion of the rent as determined by Section 8. 24 C.F.R 982.451(b)(4)(iii).
<p>Section 8’s Portion of the Rent</p>	<ul style="list-style-type: none"> • As long as the tenant remains in the Section 8 program, a landlord cannot evict a tenant if Section 8 has not paid its portion of the rent. 24 C.F.R. 982.310(b)(2). • If a landlord is seeking Section 8’s portion of the rent, you can report your landlord to your Section 8 program or HUD’s Fraud Hotline at 1-800-347-3745. This will not stop the eviction case against you. • If Section 8 fails to pay rent or pays their portion of rent late, the tenant is not responsible for the late fees on the Section 8 portion of the rent. In other words, if a tenant pays his portion of rent on time and Section 8 pays late, the tenant is not responsible for late fees. 24 C.F.R. 451(b)(5)(ii)(A).
<p>Housing Quality Standards (HQS)</p>	<ul style="list-style-type: none"> • HQS inspections are inspections conduct by Section 8 to ensure the unit meets housing quality standards set by HUD. 24 C.F.R. 982.401. • Periodically, Section 8 is required to conduct an HQS inspection of the subsidized unit to make sure it is up to HUD’s Standards. 24 C.F.R. 982.401. • If the unit does not pass the HQS inspection and it is the landlord’s fault, Section 8, by law, cannot pay the landlord for the month the unit failed the HQS inspection. 24 C.F.R 982.404(a)(3). • If the unit has failed due to the landlord and Section 8 has not paid its portion of the rent, a landlord does not have the right to evict the tenant as long as the tenant has paid his portion of the rent. 24 C.F.R. 982.310(b)(2).
<p>Landlord’s Acceptance of Rent</p>	<ul style="list-style-type: none"> • If your landlord accepted rent, either the tenant’s portion or Section 8’s portion of rent with knowledge of a default by you and did not obtain a writing signed by you at the time of accepting rent informing you of the terms/conditions of accepting the rent, the landlord has waived the right evict. A.R.S. § 33-1371, RPEA 13(a)(4).

Claims Against Your Landlord

A.R.S. § 33-1368(B)

The following does not apply to mobile home park evictions, recreational vehicle park evictions, and certain subsidized housing. Below is information that may be helpful to you but is **not a substitute for legal advice**. There are other rules and laws that may be applicable to your situation, but these are common rules and laws that apply in eviction actions. A.R.S. means Arizona Revised Statutes and RPEA means Rules of Procedure for Eviction Actions.

These claims may be brought against your landlord in a separate action or as counterclaims in the eviction action.

Counter-claims	<ul style="list-style-type: none"> • Counterclaims in an eviction action must be filed in writing and served upon the opposing party. RPEA 8(a). You can hand it to your landlord or his attorney before your case is called by the judge. • Counterclaims must state specific facts claiming that you landlord violated the rental agreement or statute. • Counterclaims must state when and how any required notices were sent to your landlord and what the notices were about.
Retaliation	<ul style="list-style-type: none"> • A.R.S. § 33-1381. If, in the past 6 months, you complained to your landlord or a government agency charged with code enforcement about habitability issues materially affecting health and safety, and then your landlord did any of the following, you may be entitled to damages. <ol style="list-style-type: none"> 1. Landlord increased rent 2. Landlord decreased services 3. Your landlord filed an action for possession (eviction action) 4. Your landlord threatened to bring an action for possession • Damages are the same as those found in A.R.S. § 33-1367. See Ouster below.
Ouster	<ul style="list-style-type: none"> • A.R.S. § 33-1367. If your landlord unlawfully locks you out of your rental unit or intentionally stops providing electric, gas, water, or other essential services you can do the following: <ol style="list-style-type: none"> 1. Recover possession of the rental unit 2. Terminate the rental agreement (landlord must return your security deposit as required by the law) 3. Sue or counterclaim for an amount not more than 2 month's

	rent or twice the actual financial harm you suffered, whichever is greater.
Abuse of Access	<ul style="list-style-type: none"> • A.R.S. § 33-1376(B). If your landlord does one of the following: <ol style="list-style-type: none"> 1. Enters your rental unit unlawfully (usually this means not providing proper notice of his intent to enter the rental unit), 2. Enters lawfully in an unreasonable manner; or 3. Makes repeated demands for entry that unreasonably harass you. <p>You can do one of the following:</p> <ol style="list-style-type: none"> 1. Obtain injunctive relief (get the court to order your landlord to stop); or 2. Terminate the rental agreement. <ul style="list-style-type: none"> • In addition to the above, you can also sue for actual damages not less than an amount equal to one month's rent.
Diminution of fair rental value	<ul style="list-style-type: none"> • A.R.S. § 33-1364(A)(2). If your landlord deliberately or negligently fails to provide running water, gas or electrical service, reasonable amount of hot water, heat, air conditioning or cooling (where units are installed), or essential services you can ask the court for a return of part of the rent you have paid. In other words, because your landlord failed to supply one or more of the above, your rental unit was not worth what you were paying for. • This statute requires that you first give your landlord reasonable notice about the problem.
Non-compliance with rental agreement by landlord	<ul style="list-style-type: none"> • A.R.S. § 33-1361. This statute allows for damages against your landlord, but requires previous written notice (either a 10-day notice for material noncompliance with the rental agreement or a 5-day notice for noncompliance materially affecting health and safety) to your landlord and an opportunity for your landlord to fix the problems stated in your notice.

After an Eviction Judgment

The information below may be helpful to you but is **not a substitute for legal advice**.

<p>Judgment</p>	<ul style="list-style-type: none"> • Once your landlord has been awarded a judgment, the only way you can stay in the rental unit is by working out an agreement with your landlord or filing an appeal of the judgment and paying a supersedeas bond (see Bonds below). Any post-judgment agreements should be in writing and signed by your landlord. Keep a copy of any agreement. • Judgments accrue interest from the time of the judgment until paid. • Once a judgment is paid off, the judgment creditor (landlord) must file a satisfaction with the court. A satisfaction lets anybody who looks at the court records know that the judgment has been paid off. • A judgment does not allow your landlord to take possession of the rental unit. See Writ of Restitution below.
<p>Writ of Restitution</p>	<ul style="list-style-type: none"> • In most cases, your landlord can go back to the court after 5 days to get a writ of restitution. A.R.S. § 12-1178. If the eviction action was filed based on an immediate and irreparable breach, your landlord can obtain the writ of restitution the next court day. • Writs of restitution are executed (served on a tenant or the rental unit) by a constable. • Your landlord may not change the locks or enter the rental unit until the writ of restitution has been issued by the court and served by the constable. You can call the police if your landlord changes the locks or enters the rental unit too early. • Once the writ of restitution has been lawfully executed, you may not remain at or return to the rental unit without the express permission of your landlord. If you remain or return to the rental unit without permission, you can be charged with criminal trespass.
<p>Motion to Set Aside Judgment</p>	<ul style="list-style-type: none"> • There 10 specific reasons a motion to set aside judgment may be filed. (e.g. the court did not have jurisdiction to hear the case, you tendered all amounts due prior to judgment being entered, the judgment is contrary to law, etc.). See RPEA 15 for the full list. • For certain reasons, a motion to set aside the judgment must be filed with the trial court not more than 60 days after the judgment. For other grounds, the motion must be filed within a reasonable time. • Filing a motion to set aside the judgment does not prevent the execution of a writ of restitution or allow you to stay in the rental unit.

Appeal	<ul style="list-style-type: none"> • A notice of appeal must be filed within 5 days after the judge has signed the judgment. Filing the notice of appeal will not allow you to remain in the rental unit. • There is a fee to file an appeal, but if you cannot afford the fee, you may request a deferral or waiver. Ask the clerk for a fee deferral/waiver application.
Bonds	<ul style="list-style-type: none"> • There is a cost bond of \$250.00 associated with filing an appeal that can be waived or deferred. • A supersedeas bond can be filed with the trial court to stay the writ of restitution which will allow you to remain in the rental unit while the appeal is being heard. This bond cannot be waived or deferred. In the case of an immediate termination, <u>the supersedeas bond must be paid to the trial court before the writ of restitution is issued.</u> The amount of the bond varies depending on the amount of rent due from the date of judgment until the next periodic rental date, costs, and attorney fees. Additionally, you must pay your monthly rent to the court on or before the monthly due date during the appeal to remain in the property while the appeal is being heard.
Personal Property (does not apply to mobile homes)	<ul style="list-style-type: none"> • Your landlord must hold your personal property for 21 days after the constable serves the writ of restitution, but you must pay the landlord for the cost of removal and storage (NOT the judgment amount) to recover your personal property. Certain personal items are excluded for this requirement. See A.R.S. § 33-1368(E)-(F) for additional information related to personal property left in a rental unit after an eviction.
Security Deposit (does not apply to mobile homes)	<ul style="list-style-type: none"> • Your landlord can apply your refundable security deposit to unpaid rent and other lawful charges after an eviction. See A.R.S. § 33-1321(D) for more information on obtaining a refund of your security deposit from your landlord.