

PROMOTING ACCESS TO JUSTICE

Arizona Commission on Access to Justice

Meeting Agenda

August 17, 2016 - 10:00 a.m. to 2:00 p.m.

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

Conference call-in number: 602-452-3288 Access code: 0669

[ACAJ WEBPAGE](#) [WebEx link](#)  

TIME	AGENDA ITEM	PRESENTER
10:00 a.m.	Welcome and Opening Remarks	<i>Judge Lawrence F. Winthrop, Chair</i>
	<p>Approval of minutes from May 18, 2016</p> <p><input type="checkbox"/> <i>Formal Action/Request</i></p>	
10:05 a.m.	Chairperson's report	<i>Judge Winthrop</i>
10:15 a.m.	Presentation on the Institute for Justice Chicago Entrepreneur Clinic <ul style="list-style-type: none"> • Institute for Justice webpage http://ij.org/ij-clinic-on-entrepreneurship/ • University of Arizona Intellectual Property & Entrepreneurship Clinic webpage https://law.arizona.edu/intellectual-property-entrepreneurship-clinic 	<i>Beth Kregor, Director of the Institute of Justice Clinic on Entrepreneurship</i>
11:00 a.m.	Presentation on the Michigan Online Court Project <ul style="list-style-type: none"> • University of Michigan webpage http://thirdcentury.umich.edu/online-court-project/ • Michigan Journal of Race and Law Online Case Resolution Systems Enhancing Access, Fairness, Accuracy, and Efficiency <p><input type="checkbox"/> <i>Formal Action/Request</i></p>	<i>M.J. Cartwright, CEO and Director of Court Innovations, Inc.</i>

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order. Please contact Kathy Sekardi (602) 452-3253 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.

12:00 p.m.

☞ **Lunch Break** ☞

12:45 p.m. Report on the Fair Justice for All Task Force

*Dave Byers,
Executive Director, AOC
and Chair of the Fair
Justice for All Task Force*

Formal Action/Request

1:30 p.m. Report on Law4AZ Project

*Jonathan Voigt,
State Library of Arizona*

1:35 p.m. Proposed rule change petition regarding stipulated judgments in
eviction actions

Ellen Katz

Formal Action/Request

1:45 p.m. Update on the AZCourtHelp.org website

Judge Winthrop

1:50 p.m. Report from *Pro Bono* Service and Funding Workgroup
Judge Kreamer will update the members on the most recent meeting

*Judge Joseph Kreamer,
Pro Bono Service and
Funding Workgroup
Chair*

1:55 p.m. Good of the Order / Call to the Public

Judge Winthrop

Future meeting dates:

February 15, 2017 August 16, 2017

May 17, 2017 November 8, 2017

Adjournment

2016 Meetings

November 9

10:00 a.m. to 2:00 p.m.

State Courts Building, Phoenix, Arizona

Conference Room 119

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Arizona Commission on Access to Justice
DRAFT MINUTES
May 18, 2016
10:00 a.m. to 2:00 p.m.
State Courts Building, 1501 W. Washington Street
Phoenix, AZ 85007

Present: Judge Lawrence Winthrop, Chair; Kip Anderson; Judge Janet Barton; Mike Baumstark; Judge Thomas Berning; Millie Cisneros; Steve Hirsch; Michael Jeanes; Ellen Katz; Judge Joseph Kreamer; John Phelps; Janet Regner; Kevin Ruegg; Judge Rachel Torres Carrillo

Telephonic: Judge Maria Elena Cruz; Judge James Marnar; Anthony Young

Absent: Michael Liburdi; Steve Seleznow; Lisa Urias

Presenters/Guests: Charles Adornetto; Don Bivens; Dave Byers; Kathleen Cole; Jeff Fine; Cari Gerchick; Kevin Groman; Chris Groninger; Lara Slifko; Dean Douglas Sylvester

AOC Staff: Theresa Barrett; Julie Graber; Mark Meltzer; Nick Olm; Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome, Opening Remarks and Approval of Minutes

With a quorum present, the May 18, 2016 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Larry Winthrop, at 10:12 a.m.

Motion: Judge Winthrop moved to approve the February 17, 2016 minutes. **Seconded:** Judge Barton
Vote: Unanimous.

II. CHAIRPERSON'S REPORT

Highlights of Judge Winthrop's report:

- Commission staff has updated the Arizona Charitable Tax Credit Video to include the new legislative changes (SB1216 and SB1217) that increase credit amounts and extend the deadline for donating. This video along with other materials can be used by members for commission outreach and tax credit presentations.
- Judge Winthrop thanked members who have made presentations about the Arizona Charitable Tax Credit.
- Chief Justice Bales was one of the panelists who spoke at the White House Access to Justice Forum in April. He discussed the issue of fines and fees and the work of the Fair Justice for All Task Force. Microsoft, one of the business representatives at the forum, announced they have donated \$1,000,000 and technology services to create an "open source" legal services triage portal.
- Judge Winthrop has had an opportunity to discuss with several of Arizona's Congressional leaders a concern for funding for civil legal aid.
- At the American Bar Association Access to Justice Chairs Meeting in Chicago, Judge Winthrop met with other access to justice chairs and learned what other states are doing with access to justice initiatives.
- The ACAJ annual report will be provided to the Arizona Judicial Council (AJC) and the Presiding Judges at their June meetings. The presentation will also include a demonstration of the state-wide virtual legal resource website (AZCourtHelp.org).

III. REPORT ON LEGAL SERVICES “TRIAGE” PROGRAM AT ASU’S LAW SCHOOL

Douglas Sylvester, Dean of Arizona State University’s (ASU) Law School, presented on the legal services triage program that will be housed at the Arizona Legal Center near ASU’s new downtown law school. Dean Sylvester reported this program allows law students, under the supervision of licensed attorneys, to provide legal triage to clients and then refer those clients to attorneys who provide legal services in the area of law needed for their matter. The legal center will have designated days throughout the month to focus on certain areas of law such as Veteran’s law, family law, and probate law. The legal center will also have a full-time social service worker and full-time Spanish speaker to assist clients. The legal center and the law school plan to open in August of 2016.

IV. REPORT ON THE COMMITTEE ON CIVIL JUSTICE REFORM

Don Bivens, chair of the Committee on Civil Justice Reform, reported the committee is made up of 24 members of the judicial bench and the Arizona State Bar; they are divided into four work groups to focus on certain areas: 1) options to compulsory arbitration; 2) case management reforms; 3) reforms to court operations; and 4) civil discovery reforms. The committee will submit a report, together with proposed rule changes, to the Arizona Judicial Council no later than October 1, 2016.

V. REPORT ON FAIR JUSTICE FOR ALL TASK FORCE

Dave Byers, Director of the Arizona Administrative Office of the Courts, reported the goal of the task force is to:

- a) Recommend statutory changes, if needed, court rules, written policies, and processes and procedures for setting, collecting, and reducing or waiving court imposed payments;
- b) Develop suggested best practices for allowing citizens unable to pay the full amount of a sanction at the time of sentencing options for reasonable time payment plans or by the performance of community service.
- c) Recommend best practices for making release decisions that protect the public, but do not keep people in jail solely for the inability to pay bail.
- d) Review the practice of suspending driver’s licenses and consider alternatives to license suspension.
- e) Recommend educational programs for judicial officers, including pro tem judges and court staff who are part of the pretrial decision making process.
- f) Identify technological solutions and other best practices that provide defendant notifications of court dates and other court-ordered deadlines using mobile applications to reduce the number of defendants who fail to appear for court and to encourage citizens who receive a citation to come to court.

Some of the proposals the task force is considering are changes to statutes, rules of court, enhanced training (especially for part-time judges), and the development of policy and best-practices. The task force will vet their recommendations with identified AJC standing committees starting in late summer, culminating in presentations at the Arizona Leadership Conference and October AJC meeting.

VI. REPORT ON SRL-FAMILY COURT WORKGROUP

A. Update on AmeriCorps Program

Judge Barton updated the commission members regarding the AmeriCorps program in the Maricopa County Superior Court. Judge Barton stated that the AmeriCorps volunteers are currently limited to directing litigants to court facilities and providing assistance with identifying which forms to fill out. There are plans to expand the program to include more volunteer training and to partner with the Joel Shephard Family Law Clinic, Sandra Day O’Connor College of Law (ASU), Arizona Summit Law

School, and Community Legal Services. The focus of this training will provide the volunteers with understanding how to provide legal information to self-represented litigants.

B. Update on Maricopa County’s Law Library Resource Center

Judge Barton reported that the renovation of the Maricopa County Law Library Resource Center is scheduled to open at the end of October, 2016.

C. Update on Law4AZ Library Project

Judge Barton informed the commission members that the Law4AZ program has completed the training for public library staff to assist them with providing legal information to the public. The State Library continues to promote engagement and partnership of local attorneys to provide free training sessions to the public. A collaborative effort between the State Library and Maricopa County’s Law Librarian is in the planning stages to develop a legal information versus legal advice session for a statewide meeting of court staff.

D. Update on Response/Answer Handbook and AZCourtHelp Project

Theresa Barrett presented on the status of the question and response document and stated that a statewide memorandum was sent out notifying court leadership of the new document and its location on the AJINWeb. Additionally, Ms. Barrett mentioned there is a tremendous interest in the use of this document and it that it will subsequently be posted in English and Spanish on the court’s public-facing website after it is translated into Spanish.

VII. REPORT FROM SRL-LIMITED JURISDICTION COURTS WORKGROUP

A. Update on SRL-LJC WG Meeting

Judge Carrillo reported the workgroup discussed the use of video and teleconferencing in limited jurisdiction courts and that the workgroup developed an action plan.

- a) Determine the need for increased use of video or teleconferencing.
- b) Research the types of hearings or case types that would be appropriate for video or teleconferencing.
- c) Determine if it would be beneficial to develop best practices for using video or teleconferencing.
- d) Research the minimum infrastructure requirements to support videoconferencing and determine what technology the courts are already using.
- e) Seek guidance from all rules - local, procedural, Supreme Court rules or codes – that govern remote appearances.
- f) Encourage the use of video and teleconferencing and develop an education component to inform litigants and lawyers when this resource becomes available.

B. Update on Resources Sub-Workgroup

Mr. Olm reported that the “GoAnimate” software program was purchased to finish the animated information videos for landlord-tenant matters. Additionally, Anthony Young and SALA have created a video script that informs tenants what they can do when landlords are not complying with the terms of the lease.

C. Update on forms and instruction packets for landlord-tenant matters

Mr. Olm reported that the landlord and tenant forms have been finalized and the informational packets are due to be completed in the next few weeks.

D. Next steps for landlord-tenant forms

Mr. Baumstark requested that the commission endorse the mandatory use of the forms to promote impartiality and support the Supreme Court's access to justice initiatives. If supported, he informed members that the next steps would include posting the rule change petition electronically on the Supreme Court's Rules Forum to receive comments and suggestions and vetting the petition to appropriate Supreme Court standing committees, such as the Committee on Limited Jurisdiction Courts.

Motion: Mr. Baumstark moved for the commission to approve the filing of a rule change petition that will ask the Supreme Court to require the use of Supreme Court approved forms and notices for eviction actions. In addition, Mr. Baumstark moved to have the petition, forms, and notices circulated to the appropriate standing committees of the Supreme Court for further input. **Second:** John Phelps. **Vote:** Unanimous.

E. Training for Judicial Officers/Staff

Jeff Fine, Court Administrator for Maricopa County Justice Courts, announced a training conference for the Maricopa County Justice Court staff. This three-day conference is scheduled in mid-July at Grand Canyon University. Mr. Fine stated he will be soliciting volunteers to present at this conference on a variety of topics as one of the commission's recommendation is training frontline court and judicial staff.

F. Presentation on Rule Change Petition for Change of Judge in Eviction Actions (R-16-0022)

Ellen Katz presented on the rule change petition that would allow a change of judge in eviction actions. Ms. Katz reported that this petition came from the Legal Services Committee of the State Bar of Arizona and the petition has been filed electronically on the Supreme Court's Rules Forum. Ms. Katz stated that the Justice Court Rules of Civil Procedure permits a change of judge in other civil cases heard by the Justice Courts; however, the Rules of Procedure for Eviction Actions has not been revised to permit a change of judge as a matter of right and for cause in eviction actions in Justice Court. Ms. Katz mentioned that landlord attorneys continue to oppose this petition as has been the case in previous years.

Mr. Hirsch mentioned that the Arizona State Bar Rules Committee originally voted to oppose this petition but the State Bar Governing Board subsequently voted to approve it after limited approval period of one year was added.

Mark Meltzer, Senior Court Policy Analyst for the AOC, summarized the history of this rule petition and similar petitions from previous years. He noted this same petition was presented at the Committee on Limited Jurisdiction Courts (LJC) and that committee voted unanimously to oppose it. There are nine standalone justice courts that are not co-located, which may be an administrative challenge if the change of judge rule is in effect. Lastly, Mr. Meltzer mentioned there was a comment that prominent landlord attorneys served as Justice of the Peace *pro tempore* on eviction calendars; however, this practice has ceased after ethical concerns were raised.

Members had the following additional comments:

- There are concerns that this rule change could affect the time standards for eviction cases.
- This rule change will lead to public perception that the courts are trying to do well for tenants.
- This rule change could be abused by landlord attorneys who could request a judge they believe is more favorable to them.

Motion: Judge Berning moved to have the Arizona Commission on Access to Justice approve the filing of a comment supporting this rule change petition with the emphasis that this rule would be a one-year trial period. **Seconded:** Janet Regner. **Vote:** 15 in favor; 2 opposed.

Judge Winthrop noted that committee staff from the AOC will submit the comment in support of this rule change petition.

VIII. ADDITIONAL CHAIR REPORT

Judge Winthrop reported he met with Joe Sciarrotta from the Arizona Attorney General's Office. They discussed a proposal to present an educational program to talk about the ethical restrictions on public lawyers that currently exist while performing *pro bono* activities. This program would be a joint presentation from Chief Justice Bales and Mark Brnovich, Attorney General of Arizona. More information about this collaborative conference will be provided at the next ACAJ meeting.

IX. PRO BONO SERVICES WORKGROUP

Judge Kreamer reported the following efforts of the *Pro Bono* Services Workgroup:

- Corporate counsel partners report that the Arizona Association of Corporate Counsel has voted to establish its own commission regarding *pro bono* services. The focus will be on providing *pro bono* services for new business or non-profit startups.
- Regarding the law firm *pro bono* network – Judge Kreamer and Steve Hirsch continue efforts to strategize and reach out to law firms to participate.

X. AMERICAN BAR ASSOCIATION TELEPHONE WORKGROUP UPDATE

Kevin Ruegg updated the commission on the Self-Help Services and Courtroom Innovations Working Group that was established by the American Bar Association and the Self-Represented Litigant Network. Ms. Ruegg is the Arizona representative participating in the national and regional conference calls each month for this workgroup.

Ms. Ruegg reports this group envisions 100 percent access that ensures each participating state has the beginning steps to a continuum of services through self-help services and statewide portals available for all people.

The workgroup discussed self-help centers as the pipeline for unbundled services and models for setting up unbundled legal services. Arizona is leading the way in this regard through the Steering Committee for Legal Aid, providers who collaborate with the Arizona Foundation for Legal Services and Education, and the involvement of the Arizona Commission on Access to Justice. The workgroup also discussed providing more education regarding the parameters of unbundled legal services for attorneys and court clerks.

Finally, the workgroup explored remote services and the importance of integrating this technology into the court. It is important to have accessible and standardized forms and to have alternatives to appearing in court; especially for those with geographic constraints.

XI. OTHER BUSINESS

A. Good of the Order/Call to the Public

There was no response to a call to the public

B. Adjournment

Meeting adjourned at 2:01 p.m.

C. Next Commission Meeting Date

August 17, 2016

10:00 a.m. to 2:00 p.m.

State Courts Building, Conference Room 119A/B

1501 W. Washington, Phoenix, Arizona 85007

Gerald A. Williams
Arizona Bar No. 018947
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85301

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-16-0040
PETITION TO AMEND)	
RULES 5(a), 5(b)(6), 5(b)(7) and)	Objection to Proposed Rule
Add Rules 13(h) and 20 of the)	Changes, to Proposed Mandatory
RULES OF PROCEDURE FOR)	Summons and Complaint, to
EVICITION ACTIONS)	Proposed Mandatory Notice
)	Forms, and Suggested
)	Alternative Language for Forms

BACKGROUND

The author of this pleading is a justice of the peace in Maricopa County. He has served on three rule writing committees, the State Bar’s Civil Jury Instruction Committee, and knows the level of effort and compromise that goes into producing the type of work product that has been completed; but he has significant and serious concerns about what has been proposed in the petition, especially the proposed mandatory eviction forms. They were not recently circulated among the justices of the peace and he did not see the proposed forms in final form until the week before this petition was filed. Concerns with the proposed forms were muted somewhat based on a belief that they were going to be optional rather than mandatory.

Some of the numerous problems with the forms will be detailed in this pleading. At a minimum, please do not force justice courts to use a two page judgment form, with check off boxes for items that appear in perhaps one out of every five-hundred cases (e.g. counterclaims, non-waiver agreements). In addition, the notice forms should be in the form of a cure notice from a landlord to a tenant. Instead, the proposed forms contain both cure notice language and also third person language, almost as if it was coming from a court order. The proposed notice forms are significantly more wordy than the forms currently on the Maricopa County Justice Courts' web page and the proposed notice forms are also truly confusing. In contrast, some of the proposals in the petition, especially a requirement that the complaint identify whether the case involves government subsidized housing, are genuinely good ideas.

I.

MANDATING SPECIFIC FORMS FOR NOTICES, BUT ESPECIALLY FOR COMPLAINTS, IS UNNECESSARILY RESTRICTIVE AND WILL GENERATE TENUOUS PROCEDURAL DUE PROCESS ARGUMENTS

While a mandatory form for a summons is often appropriate,¹ requiring landlord attorneys to file their complaints only on a court approved

¹ JCRCP 112(b); JCRCP, Appendix I.

form is unnecessarily restrictive and arguably insulting. There is certainly no proposal that attorneys representing tenants be restricted either to a court approved answer form or to a court approved counterclaim form. If the complaint complies with the numerous requirements of the applicable statutes and rules,² then it should be legally sufficient.

It is also somewhat ridiculous to require landlords and attorneys representing landlords to use a complaint form containing language for causes of action that they are not even alleging, only to leave those portions of the complaint form blank. Even so, a larger problem concerns potential remedies if a landlord used a notice form that contains substantially similar but not identical language.

If the required forms, especially in their current form, are made mandatory, then it will provide a basis for tenants to claim that their case should be dismissed simply because the form used in their case does not exactly match the form required by the Administrative Office of the Courts. Doing so is contrary to modern notice pleading requirements and to generally established principles of law. Procedural due process requires simply that a party have a meaningful opportunity to be heard, at a

² RPEA 5(b), 5(c) & 5(d).

meaningful time in the process, and in a meaningful manner.³ If the proposed mandatory notice forms are adopted without any opportunity for flexibility, then it would be possible for a tenant to argue that their case should be dismissed even though the landlord complied with the requirements of the statutes, any case law, and the Rules of Procedure for Eviction Actions (RPEA), and even though the tenant clearly understood what he or she needed to do to cure the alleged breach of the lease.⁴

American courts once followed a code pleading format that drew distinctions between merely alleging that someone is “entitled to possession of specific property” (which was inadequate) and alleging that someone is the owner and is entitled to possession (which was sufficient).⁵ We do not need to return to a system that values format over substance, especially since it is already clear that only a proper plaintiff can prevail in an eviction action⁶ and since it is already clear that only the property owner or his or her attorney can appear in court on behalf of the plaintiff.⁷ In short, proposed

³ *Comeau v. Ariz. St. Bd. of Dental Examiners*, 196 Ariz. 102, 107-108, 993 P.2d 1066, 1071-1072 (Ct. App. 1999)(Investigative interview was adequate).

⁴ Judges may hear similar arguments to the following: “But your honor, clearly the notice was defective because it only advised my client once that he should get any settlement agreement with his landlord in writing and the rules now require that a notice form be used that tells him that twice.”

⁵ Clark, *The Complaint in Code Pleading*, 35 Yale L.J. 259, 262 (1926).

⁶ RPEA 5(b)(1).

⁷ RPEA 11(a)(1).

Rule 20 should be modified to read simply, “When applicable,⁸ landlords should use forms that are substantially similar to the notice forms in the appendix to these rules.”

III.

PROPOSED LANGUAGE IN THE NOTICE FORMS MISLEADS TENANTS AS TO WHAT WILL HAPPEN IN COURT AND AS TO WHETHER THEY CAN REQUEST A COURT ORDER FOR MORE TIME TO CURE ANY ALLEGED BREACH OF THE LEASE

The proposed forms share some of the same common problems. For example, nearly every proposed form instructs the tenant to get any settlement in writing, not just once, but twice. This unnecessary duplication adds little, if any, value. However, there is a problem that goes well beyond elements of style.

Nearly every proposed form contains this problematic sentence: “After a hearing, the judge will decide if you have to move or can remain in the rental.” There are two major errors in that sentence.

Hearing is a term of art that involves some type of litigated procedure where a judicial officer makes either a factual or legal determination (or both) after hearing evidence (usually in the form of witness testimony). In

⁸ The “when applicable” language is designed to avoid a need to create an additional set of official forms for the Arizona Mobile Home Parks Residential Landlord and Tenant Act. A.R.S. §§ 33-1401 - 33-1501. It also avoids needing to create either a set of forms or additional language for month-to-month leases concerning a landlord’s duty to mitigate damages.

contrast, eviction actions are summary proceedings. If the tenant cannot articulate a legal defense to the landlord's allegations, then a judgment will be entered in favor of the landlord.⁹ If the tenant is able to do so, then the case is immediately set for a trial, but no hearing will occur.¹⁰ In addition to misrepresenting the law, the proposed sentence inaccurately describes the judge's role.

If a tenant is in a courtroom because of an eviction action, the judge will not "decide if [the tenant has] to move or can remain in the" residence. In reality, the judge will decide whether the landlord has met his or her burden of proof.

At least weekly if not daily, tenants appear in justice courts in Maricopa County for eviction actions with a false hope that the judge will give them additional time to pay their rent based on a sudden financial hardship. There is no legal authority to do so; but the proposed language at least infers that there is and sets judges up to fail. Tenants who appear with that false hope will leave thinking that the judge, and perhaps the judicial branch as a whole, did not care about them. A judge politely explaining that

⁹ RPEA 11(b)(1).

¹⁰ The only time a hearing is held in connection with eviction actions is if there is an issue concerning the writ of restitution. RPEA 14(b)(2). The North Valley Justice Court has set perhaps two since the rules were adopted in 2009.

the law is different than what is suggested on the mandatory form will appear nonsensical. Any explanation at that point will also be largely irrelevant to the emotions tenants feel as they leave the courtroom.

IV.

THE PROPOSED FIVE-DAY NOTICE FOR NONPAYMENT OF RENT IS IN A CONFUSING FORMAT AND CONTAINS CONFUSING LANGUAGE

Prior to filing an eviction action for nonpayment of rent, the landlord must give the tenant a five-day cure notice. This notice must: (1) state the amount of any unpaid rent and any other amount due; (2) notify the tenant of the landlord's intent to terminate the lease if the amount due is not received within five days after the notice is given to the tenant, and (3) inform the tenant that if the amount due is not paid, that the tenant must then surrender possession of the residence.¹¹ On day six, the landlord can file suit.

The five day notice for nonpayment of rent and the ten day non-compliance notice are by far the most frequent types of notice forms used in residential landlord tenant actions. Suggested alternative forms for both of these documents are attached to this pleading.

¹¹ A.R.S. § 33-1368(B). The sufficiency of the notice is a question of law. If the allegation alleges non-payment of rent for a space in a mobile home park, then the landlord must give the tenant a seven-day notice. *See generally*, Williams, *Representing Residential Tenants in Eviction Actions*, 28 Ariz. Attorney 12 (Nov. 2011).

There are numerous problems with the proposed five day notice. The entire format of the document invites the reader to set it aside and to read it later. It contains random parenthetical commentary (e.g. “Must be listed in rental agreement” or “if allowed in rental agreement”). There is also no information presented stating that the security deposit cannot be used to pay the rent, which is one of the more common misunderstandings frequently expressed by tenants. In addition, the proposed form refers the tenant to five sources of reference material, none of which is the RPEA.

CONCLUSION

Access to justice issues for tenants often have little to do with tenants not understanding why they are facing eviction. Instead, they are more likely to concern either repair and maintenance issues or how to get their security deposit back. (Sample letters and forms for those issues are also on our justice court web page.)¹² For example, they know that they have not paid their rent, but incorrectly believe that they can “rent strike” by withholding rent until their landlord makes the repair.

As a matter of public policy, it is a mistake to use a set of mandatory forms to change the law in an effort to make it more difficult for landlords to

¹² In addition, our bench Best Practices Committee recently requested input on draft sample complaint forms that can be given to tenants who wish to file a cause of action against their landlord under A.R.S. § 33-1367, either for an unlawful ouster or for a failure to supply essential services.

evict tenants. It also harms the target population because if you make it more difficult to evict tenants who are not complying with the terms of their lease, then landlords will be forced to raise the rent on the tenants who are. Phoenix and Tucson currently have reasonably affordable housing when compared to similar cities around the United States.¹³ Perhaps one of the reasons for that is that Arizona has a set of statutes and rules governing residential landlord and tenant matters that provide clear and quick remedies for an obvious breach of a lease. If that system is going to be significantly changed, then those changes should come either in the form of statutory changes or in the form of deliberate substantive changes to the RPEA. The RPEA uses clear and simple language that is understandable to a self represented litigant and its' provisions are unambiguous. There is no need for some type of implied repeal of them or implied amendment to them.

While the objectives behind the proposed forms are noble, the actual language of the forms must be, and can easily be, improved.

¹³ One survey of apartment rent found rent in Phoenix to be less expensive than several major cities (e.g. Austin, Baltimore, Charlotte, Dallas, Denver, Indianapolis, Nashville, Portland, Seattle) and found rent in Tucson to be equally less expensive than other arguably comparable locations (e.g. Albuquerque, Columbus, El Paso, Las Vegas, Louisville, Memphis, Milwaukee, San Antonio). DePietro, *Here's What the Typical One-Bedroom Apartment Costs in 50 U.S. Cities*, Business Insider (Jun. 17, 2016).

I respectfully request that this Court either reject this petition or remand it to a committee where all stakeholders have equal representation and where consensus language will be achieved.

RESPECTFULLY SUBMITTED, this 5th day of August 2016.

/s/ Gerald A. Williams
GERALD A. WILLIAMS
Justice of the Peace
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85374

Copy Mailed To:
Hon. Lawrence Winthrop
Arizona Court of Appeals
1501 West Washington, Suite 401
Phoenix, AZ 85007

**NOTICE OF INTENT TO END LEASE
FOR FAILURE TO PAY RENT
(Five Day Notice)**

[Date]

To: [Tenant's Name and Address]
And Any and All Occupants

You have not paid your rent on time. You owe the following amount:

This Month's Rent: _____
Late Fees: _____
Additional Amount: _____

Total as of the date of this notice: \$ _____

The additional amount is for _____. The late fees are increasing at a rate of \$_____ per day.

Your landlord is seriously considering filing an eviction action against you but would like to give you a chance to solve this problem without the need for anyone to go to court. Please contact us immediately. You will need to make arrangements to pay the money you owe. If you cannot do so, then we demand that you move out, and that you return the keys to the residence, five calendar days from the day you received this notice.

After you move out (either now or at the end of your lease), your landlord may apply some or all of your security deposit toward any unpaid rent, but your security deposit will not be used to pay your rent now.

Even if you move out, you are still responsible for all of the rent that is due until the property can be rented again to a new tenant. You may also be required to refund any discount you received (called a rental concession) and may be required to pay other charges stated in the lease.

If your landlord files an eviction action in court against you, then you may also be required to pay court costs and attorney's fees. If your landlord files an eviction case against you, as part of that case, you will receive a handout that explains your rights and obligations.

*[Landlord or Property Manager's Name]
[Address and Telephone Number]*

Additional Information: The law for these kind of cases can be found in Arizona Revised Statutes sections 33-1368(B) and 12-1171 and in the in the Arizona Rules of Procedure for Eviction Actions. Additional help may be available at [*insert local or state bar web pages or lawyer referral services*].

This notice was served by: <input type="checkbox"/> Hand delivery to by giving it to (name): _____ who is a <input type="checkbox"/> tenant <input type="checkbox"/> occupant <input type="checkbox"/> By certified mail
--

**NOTICE OF INTENT TO END LEASE
(Ten Day Notice)**

[Date]

To: [Tenant's Name and Address]
And Any and All Occupants

You are not following the terms in your lease. If you do not fix the following problems within ten days, then your lease will end. The problems are [*unauthorized pet, unauthorized occupant, too much clutter on balcony*] _____

Your landlord is seriously considering filing an eviction action against you but would like to give you a chance to solve this problem without the need for anyone to go to court. Please contact us immediately.

If this problem, or something similar, happens again, then you will receive a second notice and, at that point, your landlord can legally file an eviction action against you.

If your landlord files an eviction action in court against you, then you may also be required to pay court costs and attorney's fees. If your landlord files an eviction case against you, as part of that case, you will receive a handout that explains your rights and obligations.

*[Landlord or Property Manager's Name]
[Address and Telephone Number]*

Additional Information: The law for these kind of cases can be found in Arizona Revised Statutes sections 33-1368(A) and 12-1171 and in the in the Arizona Rules of Procedure for Eviction Actions. Additional help may be available at [*insert local or state bar web pages or lawyer referral services*].

This notice was served by: <input type="checkbox"/> Hand delivery to by giving it to (<i>name</i>): _____ who is a <input type="checkbox"/> tenant <input type="checkbox"/> occupant <input type="checkbox"/> By certified mail

Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input type="checkbox"/> Formal action or request <input checked="" type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Presentation on the Institute for Justice Chicago Entrepreneur Clinic
----------------------------------	--	--

From: Beth Kregor, Director of the Institute of Justice Clinic on Entrepreneurship

Presenter: (same)

Discussion:

Beth Kregor will talk about a program based in Chicago, which may provide some ideas for what we can do in Arizona to assist those with innovative business ideas but who cannot afford legal assistance.

Recommended Action or Request (if any): None at this time.

Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input checked="" type="checkbox"/> Formal action or request <input type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Presentation on the Michigan Online Court Project
----------------------------------	--	---

From: MJ Cartwright, CEO and Director of Court Innovations, Inc.

Presenter: (same)

Discussion: Judicial systems exist to provide a way for societies to organize themselves around the rule of law. In order to accomplish this goal, courts need to be (1) accessible; (2) fair; and (3) cost-effective. Unfortunately, due to their reliance on antiquated, non-technological processes, courts in the United States have seen little improvement on these three measures in recent decades.

Led by U-M Law School professor J.J. Prescott, the Michigan Online Court Project seeks to revolutionize how the public interacts with courts. Its technology-driven approach has the potential to create an entirely new case resolution process, one that improves performance and accessibility along numerous dimensions and makes courts better suited for the information age.

MJ Cartwright will brief us on the Michigan experience and how this technology platform has been expanding beyond Michigan into other states, expanding to include small claims and family matters, and resulting in significant success in terms of faster case clearance, increased efficiency for courts, and meaningful opportunity for litigants.

Recommended Action or Request (if any): To support that the SRL-Limited Jurisdiction Courts Workgroup explore this type of technology platform.

COURT INNOVATIONS

ONLINE CASE RESOLUTION BRIEFING FOR
ARIZONA COMMISSION ON ACCESS TO JUSTICE

MJ CARTWRIGHT

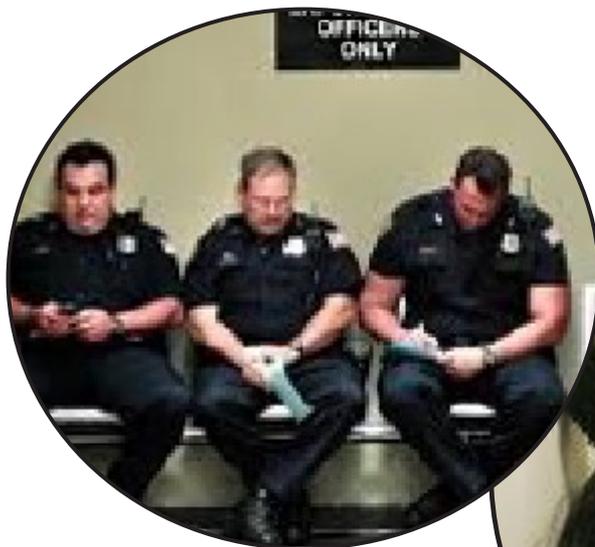


Matterhorn™

BY COURT INNOVATIONS

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WHY ONLINE PROCESS?



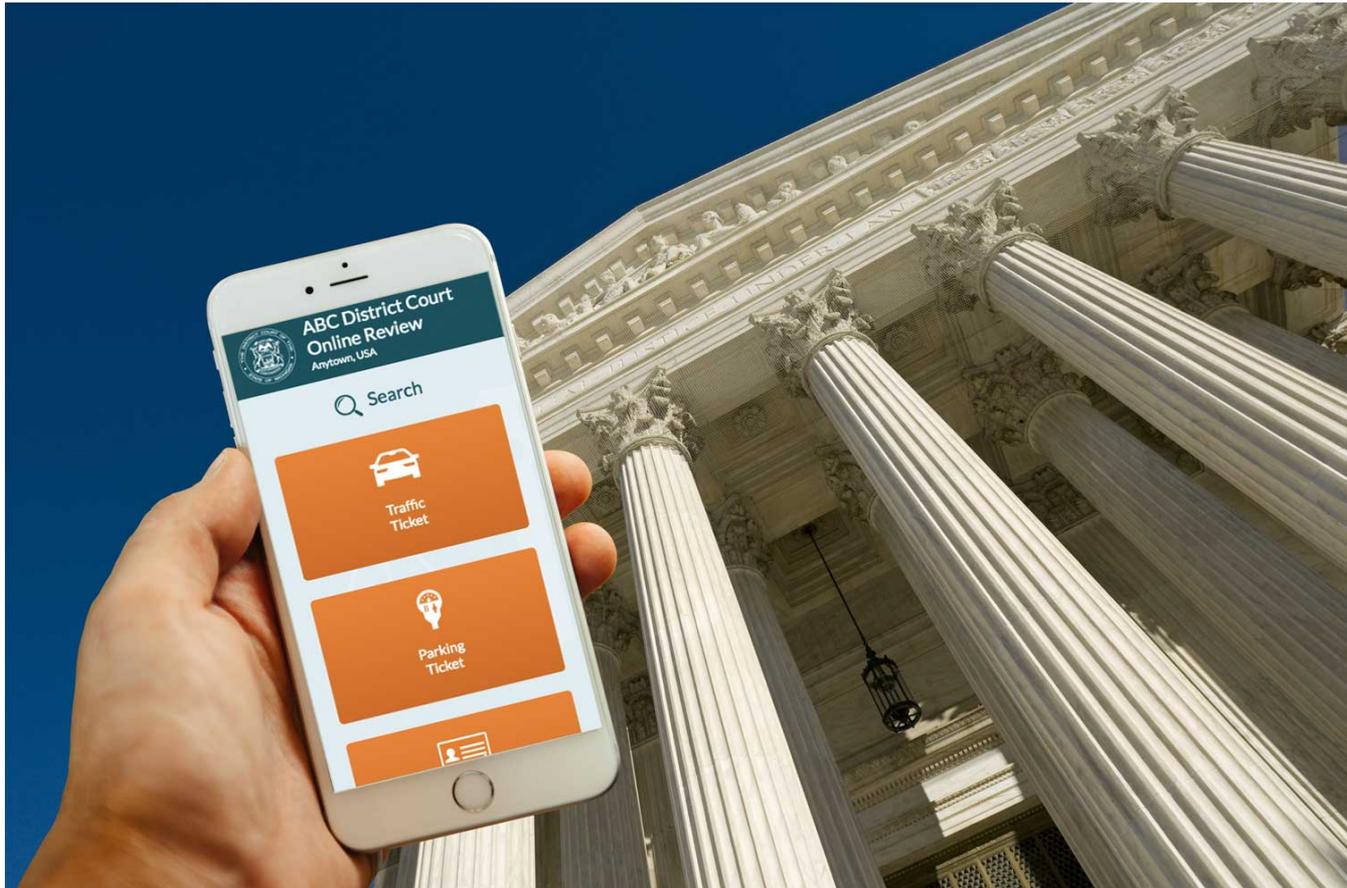
PARTNERSHIP



STAKEHOLDERS



MATTERHORN PLATFORM SOLUTION



MATTERHORN PLATFORM SOLUTION



Traffic
Ticket



Parking
Ticket



Warrant



Amnesty



Prevention



Suspended
License



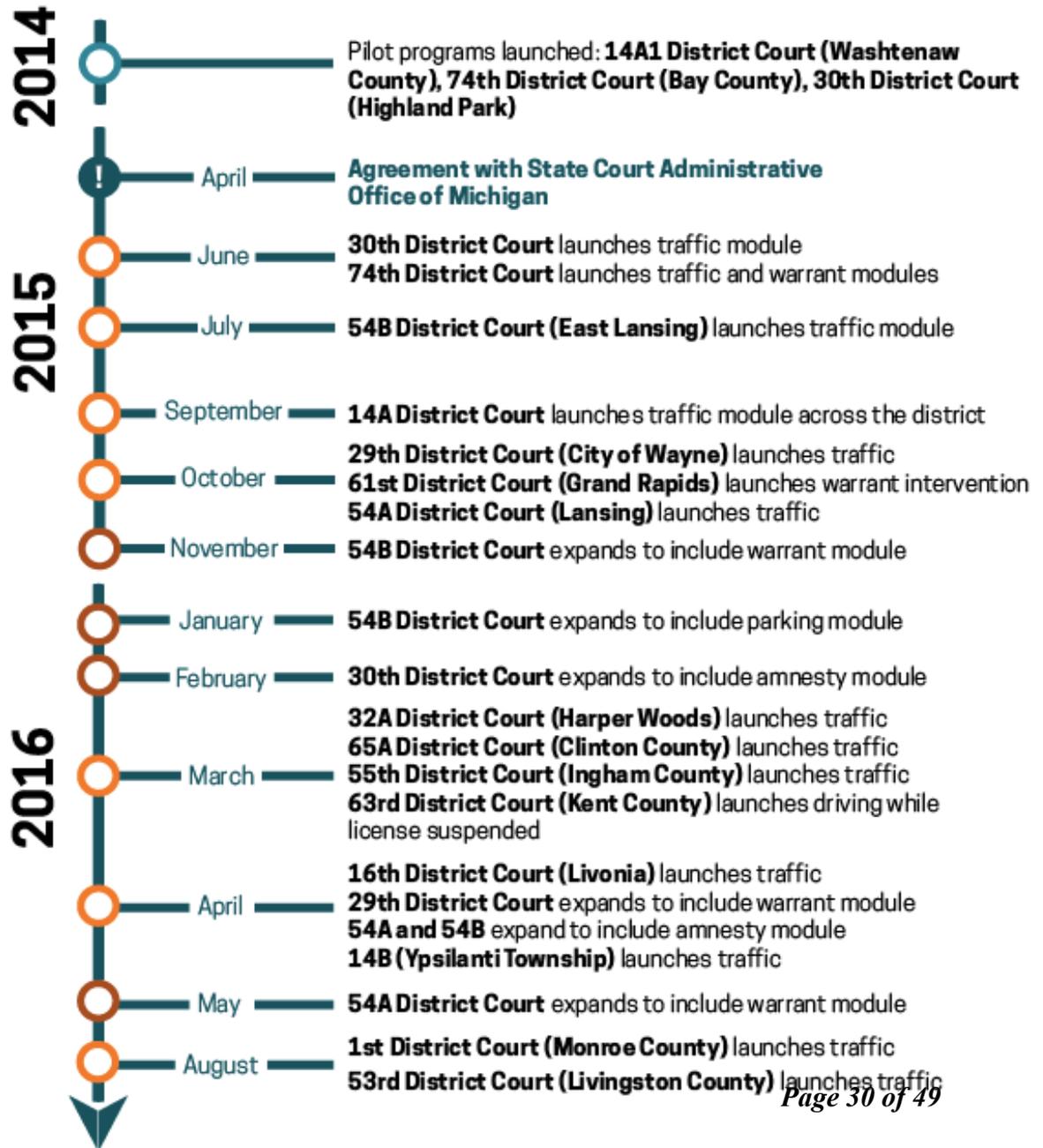
Family Court
Solutions



Small Claims



MOMENTUM WITH COURTS



WARRANT AND CIVIL INFRACTION / MISDEMEANOR ONLINE RESOLUTION

USING THE MATTERHORN PLATFORM

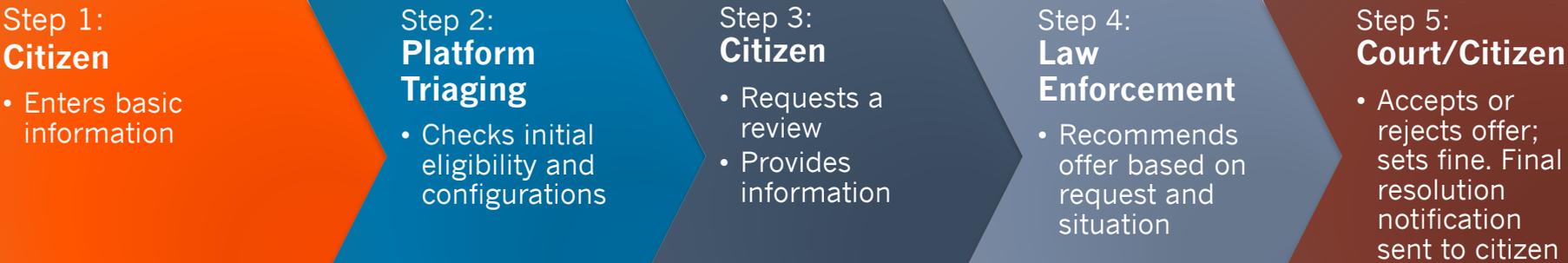


Matterhorn™

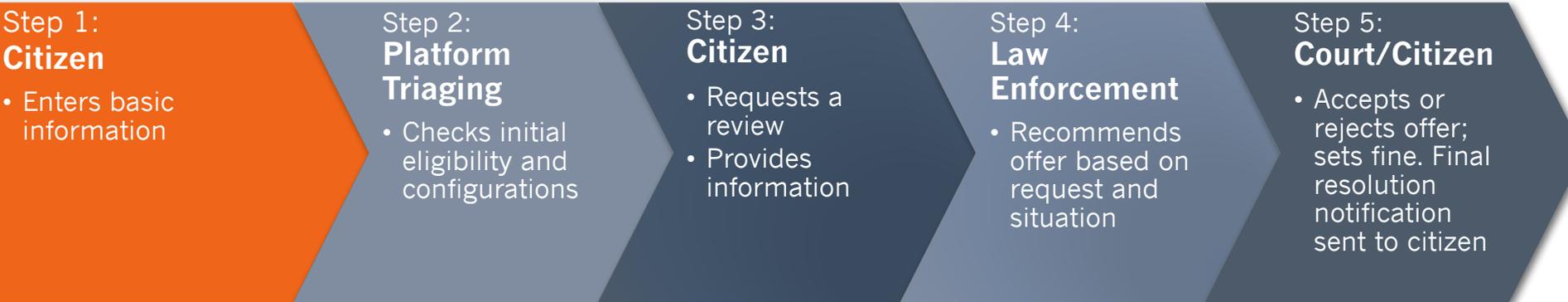
BY COURT INNOVATIONS

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ONLINE/MOBILE PROCESSES



ONLINE/MOBILE PROCESSES



The screenshots show the user interface for the ABC District Court Online Review system. The header includes the court's logo and name: "ABC District Court Online Review, Anytown, USA".

Traffic Ticket Search

Fields include:

- Driver's License Number:
- Driver's State:
- Date of Birth:

Buttons: [Cancel](#)

Warrant Search

Fields include:

- Date of birth:
- Case Number:
- OR -
- Drivers License Number:

Buttons: [Cancel](#)

Text: Don't have a drivers license or case number? [Search by name.](#)

ONLINE/MOBILE PROCESSES



ABC District Court Online Review
Anytown, USA

[Home](#) [About](#) [FAQs](#)

Case Details

Name
MARY ARCHER BROWN

Offense Date
2/16/2015

Offense
SPEEDING/SPD 5 OVER

Fine
\$126

Points
2

Eligible for review!

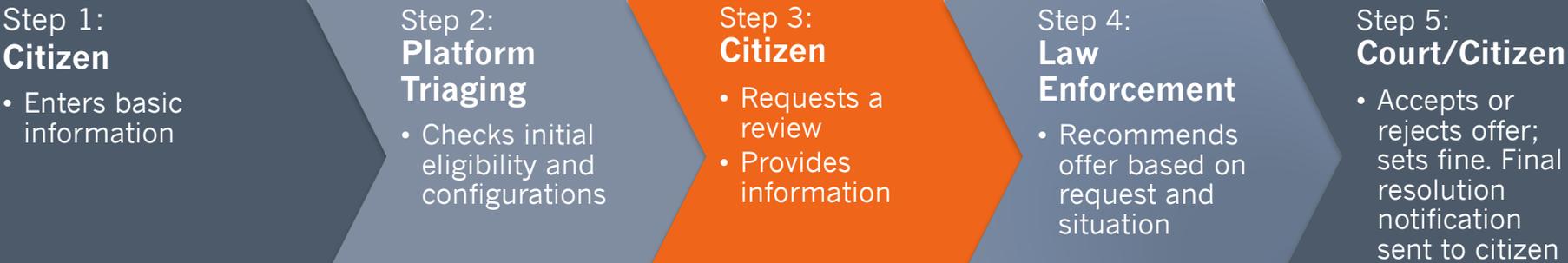
The court is willing to review your case. They may extend you an offer for a lesser offense – one that ca

[REQUEST REVIEW](#)

2 Results Found

<p>Warrant - Failure to Pay SPEEDING 5-10 OVER</p> <p>You can contest your ticket by Call 989.895.4232 989.895.4049 TDD/TTY Weekdays 8am to 5pm</p> <p>1st District Court 123 Main St.</p>	<p>Name: MARY ARCHER BROWN Case ID: 12 30585BSI 1 Date: 7/16/2016 Amount Due: \$140.00</p> <p>GET STARTED</p>
<p>Warrant - Failure to Appear SUSPENDED OPS</p>	<p>Name: MARY ARCHER BROWN Case ID: 12 30585BSO 2 Date: 7/16/2016 Amount Due: \$140.00</p> <p>GET STARTED</p>

ONLINE/MOBILE PROCESSES



ABC District Court Online Review Anytown, USA

Home About FAQs

Case Details

Name
MARY ARCHER BROWN

Offense Date
2/16/2015

Offense
SPEEDING/SPD 5 OVER

Fine
\$126

Points
2

Request Review

Law enforcement and the court will review your request and you provide below to determine if you qualify for a review.

Your Statement

I affirm that I am MARY ARCHER BROWN and my information is true and complete.

We will notify you once the judge has reached a decision.

Your email Confidential

Resolve Your Warrant

i You have a warrant for failing to pay. When you owe the court fines or fees, you must make every effort to pay them. The court may be willing to offer you a payment plan. You can also pay in full now by going to the 74th District Court's [online pay site](#).

Why haven't you paid the court? Choose one.

- I forgot.
- I figured I would just pay later.
- I didn't have the money.
- Other

What is your monthly income (not including welfare benefits)?

- \$0 (unemployed)
- \$1 - \$1,000
- \$1,001 - \$2,500
- \$2,501 - \$5,000
- Over \$5,000

I am interested in voluntary wage garnishment to help make payments.

How much are you able to pay per month?

\$

ONLINE/MOBILE PROCESSES




Online Case Review
 Bay City, MI

[Home](#)
[Traffic](#)
[Tools](#)



KENNETH LANNY BOUCHARD #16 C119418OI 1

Original Offense

Offense
SPEEDING 1-5 OVER - BAY C

 Offense Codes
2000 / 1805-OB

 Amount Ordered
\$120.00

 Points
2

 Filing Date
May 2, 2016

 Case Number
16 C119418OI 1

 Ticket Number
C119418

Recommend Approve

Select Offer

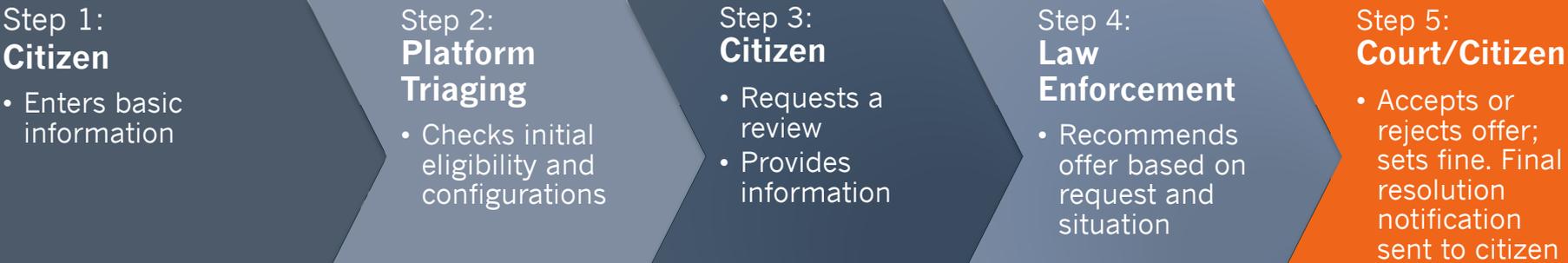
- Select ---
- Fail To Yield, \$140.00, 2 points
- Avoid Traffic Control Device, \$140.00, 2 points
- Speeding - Limited Access 1-5, \$120.00, 0 points
- Speeding - Limited Access 6-10, \$120.00, 1 points
- Speeding - Limited Access 11-15, \$140.00, 2 points
- Impede Traffic, \$120.00, 0 points
- Violation of Basic Speed Law, \$140.00, 2 points

[My Templates](#)

Add a note (not shared with defendant unless you check the box below)

Share this note with the defendant.

ONLINE/MOBILE PROCESSES



←

KENNETH LANNY ROUCHARD #14 C1194180I 1

--- Select ---

- Fail To Yield, \$140.00, 2 points
- Avoid Traffic Control Device, \$140.00, 2 points
- Speeding - Limited Access 1-5, \$120.00, 0 points
- Speeding - Limited Access 6-10, \$120.00, 1 points
- Speeding - Limited Access 11-15, \$140.00, 2 points
- Impede Traffic, \$120.00, 0 points
- Violation of Basic Speed Law, \$140.00, 2 points

Attend Traffic School?

Fine

\$ 120.00

Reject

Note [My Templates](#)

Add a note (not shared with defendant unless you check the box below)

Share this note with the defendant.

[Cancel](#)

Recommend Approve

Offense
Impede Traffic

Fine
\$120.00

Points
0

Traffic School
Yes

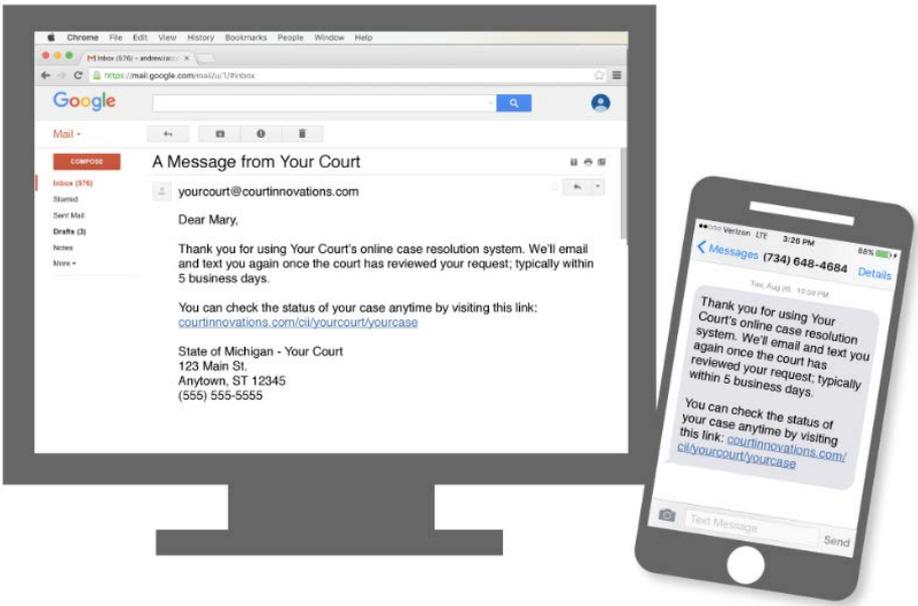
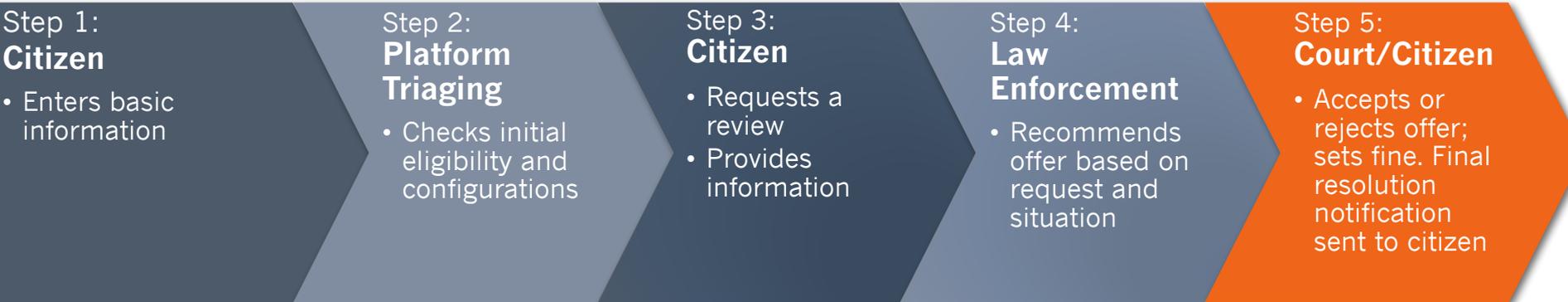
Original Offense

Offense
SPEEDING 1-5 OVER - BAY C

Offense Codes
2000 / 1805-OB

Amount Ordered

ONLINE/MOBILE PROCESSES



IMPACT AND COST SAVINGS

Cost Reduction

Combined court staff
time per hearing

before
157
minutes

after
27.36
minutes

Combined court staff
time with Matterhorn

Cost Reduction

10%
reduction
warrants
issued

**4 hours per
each warrant**

Time to Collection

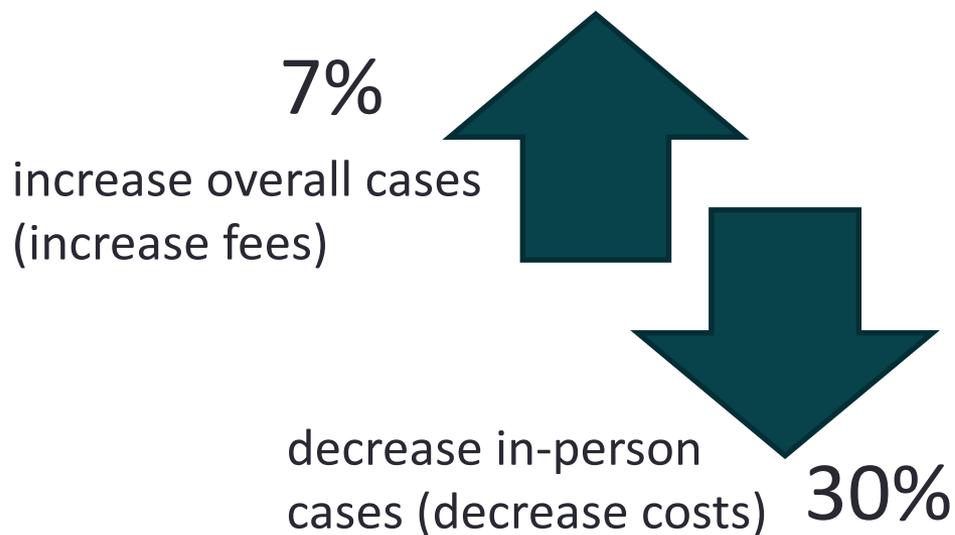
Before:
Up to 2 months



After: Less
than 8 days

INCREASE ACCESS TO JUSTICE

43% would not have been able to come to court



WHAT COURTS ARE SAYING



Honorable Brigette Officer-Hill
30th District Court Judge

Animation/video segment (not embedded)

COURT INNOVATIONS

ONLINE CASE RESOLUTION BRIEFING

MJ CARTWRIGHT

mj@courtinnovations.com

734.878.3665



Matterhorn[™]

BY COURT INNOVATIONS

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Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input checked="" type="checkbox"/> Formal action or request <input type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Update on the Fair Justice for All Task Force and Final Report
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From: Dave Byers, Executive Director, Administrative Office of the Courts and Chair of the Fair Justice for All Task Force

Presenter: Dave Byers

Discussion: Mr. Byers will update the ACAJ on the efforts of the Fair Justice Task Force and present the final report and recommendations for the ACAJ's consideration.

Recommended Action or Request: Recommend that the Arizona Commission on Access to Justice support the recommendations of the Fair Justice for All Task Force and approve the filing of a rule petition to implement the recommendations and approve the inclusion of the legislative proposals in the AJC package for next session.

Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input type="checkbox"/> Formal action or request <input checked="" type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Report on Law4AZ Project
----------------------------------	--	--------------------------------------

From: Jonathan Voigt, State Library of Arizona

Presenters: (same)

Discussion: Jonathan Voigt will update the commission on the Law4AZ Library Project.

Recommended motion: none at this time.

Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input checked="" type="checkbox"/> Formal action or request <input type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Proposed rule change petition regarding stipulated judgments in eviction actions
----------------------------------	--	--

From: Ellen Katz, William E. Morris Institute for Justice

Presenters: (same)

Discussion:

The potential issues with stipulated judgments in eviction cases were discussed at a previous Commission meeting with Pamela Bridge from CLS. The legal services organizations have since been working on a proposed rule change, which has been discussed with the SRL-Limited Jurisdiction Court Workgroup and further amended by a sub-workgroup. Ellen Katz will present this proposed rule change and request that it be filed under the Commission's name.

Recommended motion: To move the Arizona Commission on Access to Justice to support the proposed rule change regarding stipulated judgments in eviction actions.

Proposed Amended Rule

RULES OF PROCEDURE FOR EVICTION ACTIONS

Rule 13. Entry of Judgment and Relief Granted

b. Forms of Judgment.

(4) Stipulated Judgments. The court may accept a stipulated judgment, ~~but~~ only if when the court finds all the following:

- A. Both parties or their attorneys personally appear before the court;
- B. The court determines that the conditions of Rule 13(a)(1)-(2) have been satisfied and the form to which the defendant stipulated contains the following warning:

~~Read carefully!~~ **WARNING!** By signing below, you are consenting to the terms of a judgment against you and the landlord will now be able to evict you. ~~You may be evicted as a result of this judgment~~ have your wages garnished, the judgment may appear on your credit report, and you may NOT stay at the rental property, even if the amount of the judgment is paid in full, ~~without your landlord's express consent~~ unless you get the agreement in writing or get a new written rental agreement with your landlord.

- C. The court determines that the parties understand the terms in the document they signed and parties have initialed the warning language in (b).

The amounts awarded in the judgment must be consistent with the amounts sought in the complaint, although the judgment may also include additional rent, late charges, fees and other amounts that have accrued since the filing of the complaint, if appropriate. Notwithstanding Rule 13(c)(2), if all the requirements for a stipulated judgment are met, including if all parties or their attorneys personally appear before the court and the addition is reasonable, the court may award an amount for damages or categories of relief not specifically stated in the complaint. [Note: We did not discuss the last paragraph]

Arizona Commission on Access to Justice

Meeting Date: August 17, 2016	Type of Action Requested: <input type="checkbox"/> Formal action or request <input checked="" type="checkbox"/> Information only <input type="checkbox"/> Other	Subject: Report from <i>Pro Bono</i> Service and Funding Workgroup
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From: Pro Bono Service and Funding Workgroup

Presenters: Judge Joseph Kreamer

Discussion: Judge Kreamer will update the commission on the workgroup's meeting that took place on August 10.

Recommended motion: Informational only