



PINAL COUNTY JUSTICE COURTS

EVICTON ACTIONS

INSTRUCTIONS & FORMS



**INFORMATION FOR FILING AND DEFENDING
EVICTION ACTIONS IN JUSTICE COURT**

An **EVICTION ACTION** is filed for alleged violations of the lease or rental agreement or of the Arizona Residential Landlord and Tenant Act.

IF YOU ELECT TO REPRESENT YOURSELF

This is your case. **YOU** have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to follow your lawsuit to conclusion. There are certain steps you must follow to pursue your lawsuit properly. This information is provided to assist you with general procedures. You should familiarize yourself with the ARIZONA RESIDENTIAL LANDLORD TENANT ACT, which is provided in booklet form by the Arizona Secretary of State and may be accessed online. Other applicable statutes may be found in the Arizona Revised Statutes (A.R.S.) Title 12 and Title 33. You may also want to refer to the Arizona Rules of Procedure for Eviction Action (ARPEA) for additional information. The statutes and rules of court may be found online or at your local library or law library at the Superior Court ([web links provided at the end of these instructions](#)).

DUTIES OF PARTIES (Rule 4, ARPEA)

Each party and attorney filing or appearing in an eviction action or defense shall ensure the action has a good faith basis; that the relief sought is consistent with the rental agreement or applicable law; and that all required notices and have been properly served. The court may impose sanctions against a party found to have violated these duties after notice and opportunity to be heard.

CLERKS DUTY (A.R.S. § 22-507)

The clerks in the justice court are not attorneys and cannot provide legal advice. The clerks' responsibility is to provide forms, take your filing and fees, and explain court procedure. It is not the clerks' responsibility to advise you if you have a legal claim. The clerks are not responsible for any error you may make in asserting or defending your claim. The court does not take sides or render an opinion regarding the merits of a claim.

COURT FEES (A.R.S. §§ 22-281)

Forcible Detainer Filing Fee: \$55.00
Forcible Detainer Answer Fee: \$38.00

Fees are payable at the time of filing.

JURISDICTION (A.R.S. § 22-503A)

You may file an eviction action in the justice court if the total amount due does not exceed \$10,000.00. *If the amount exceeds \$10,000.00 you must file in the superior court.*

VENUE (A.R.S. § 12-401)

Venue means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit in the precinct where the defendant resides or does business or where the cause of the lawsuit occurred. To view the Pinal County Precinct Map, please visit the court's website.

NOTICE (A.R.S. § 33-1368B)

Proper notice must be served on the tenant. Notice of failure to pay rent is the most common notice.

If the notice is a 5-day notice, you may file the complaint on the 6th day after the tenant received notice. If the notice was served by certified mail, five days must be added to the notice period (the date of service shall not be counted when computing time for service).

IMMEDIATE NOTICE (A.R.S. § 33-1368A2)

You may serve a notice for immediate termination based upon irreparable and material breach i.e. (but not limited to) illegal discharge of a weapon, threatening or intimidating, assault, serious property damage and/or other criminal activity.

The immediate notice may be served with the Eviction Action Summons and Complaint.

RESOLVING NON-COMPLIANCE ISSUES (A.R.S. § 33-1368B)

Most tenant non-compliance issues can be resolved during the notice period before an Eviction Action Complaint is filed with the court. If the tenant offers you full payment of the unpaid rent (including any fees listed in the lease agreement) during the notice period, you must accept it.

PARTIES

The plaintiff is generally the property owner. The defendant is generally the tenant(s).

APPEARING IN COURT (Rule 11, ARPEA)

If the property is owned by:

- AN INDIVIDUAL may appear personally or by an attorney
- A CORPORATION may be represented by an officer of the corporation who has been specifically authorized to represent the corporation in Justice Court and has primary duties to the corporation other than representing the corporation in court, or by an attorney.
- A PARTNERSHIP may be represented by an attorney, or each partner may appear and represent his own partnership interest.

No property manager or other agent shall be allowed to represent a party unless he or she is the property owner, a sub lessor entitled to possession, or an attorney licensed to practice law and in good standing in Arizona.

Be prepared to provide documentation on request of your interest in the claim.

THE SUMMONS

The summons will issue on the same day the complaint is filed.

SETTING A COURT DATE (A.R.S. § 33-1485B)

The court will set the court date not more than six (6) business days nor less than three (3) business days from the date the summons is issued. If the complaint alleges threats, acts of violence or criminal activity, the court date shall be set not more than three (3) days away.

CONTINUING THE COURT DATE (A.R.S. § 33-1485B)

A request made to continue the court date must be in writing and must be supported by an affidavit. A continuance will only be granted for good cause and will not be granted for a period greater than three (3) business days (longer if stipulated by both parties and judge grants a longer continuance).

SERVICE OF PROCESS (Rule 5(f) & (g), ARPEA)

Service of the summons and complaint shall be accomplished by either personal service or post and mail service. Service of process shall only be performed by a Constable or Private Process Server.

Each justice court precinct has a constable who can process serve residents of the county within his/her precinct. The Constable is an elected official who serves as the Executive Branch of the Courts. Constables who are elected by voters within their judicial precincts are able to provide timely and cost efficient service by working directly with the courts in their local communities to ensure the court's orders are served.

A listing of process servers may be found in the Yellow Pages of the phone directory or there may be business cards of process servers in the lobby of the court.

The Constable or licensed process server must serve the tenant with a copy of the summons, complaint, residential eviction information sheet and notice to evict. Return of service and proof shall be made by affidavit.

If the defendant(s) cannot be served as allowed by statute and rule, after an attempt has been made, a copy of the summons may be posted on the main entrance of the residence. On that same day the summons shall be mailed by certified mail, return receipt requested. The summons is deemed to have been served three days after the mailing.

IMPORTANT: The summons and complaint must be served two (2) days before the court date (the date of service shall not be counted when computing time for service of the summons and complaint). If the court date is shortened at your request, time may not allow for service by "post and mail" in which case personal service must be made.

An Affidavit of Service must be filed with the court.

A complaint that is not served within the time required may be dismissed at the initial appearance date unless the defendant waives service in writing, or the initial appearance may be continued upon a showing of good cause to allow additional time for service.

THE COURT DATE

The judge will ask you to briefly state the allegations of the complaint.

The judge will review the allegations of the complaint and determine if proper notice was given. The tenant will be asked to enter a plea.

GUILTY / NO CONTEST: If the plea is guilty or no contest the judge will proceed to determine how much, if any, rent is due and owing through the end of the of the rental period, the amount of any alleged damages, costs of court and attorney fees, if allowed, and interest on the unpaid judgment. The judge will also order that the tenant vacate the property and that possession be returned to the property owner.

NOT GUILTY: If the tenant pleads not guilty, the defendant will be required to file a formal answer to the plaintiff's complaint. If the defendant files a counterclaim, it will also be considered and decided at the time of trial. The judge may ask the parties to meet outside the courtroom to try and resolve any disputed issues and define the issues for trial. The judge will call you back to the courtroom and ask if both sides are prepared for trial. Generally, the trial is held that same day. The court may reset the trial for a date not more than three (3) business days away (longer if stipulated by both parties and the judge grants a longer continuance).

THE TRIAL

Cases that go to trial shall be heard by a judge only unless a jury trial is demanded by the plaintiff in the complaint or by the defendant at or before the initial appearance. If a jury trial is requested both parties may be required to exchange names of witnesses and a list of exhibits expected to be called or presented. The parties will also be required to submit prepared jury instructions to the court before trial and the party requesting the jury trial may be required to post a bond to cover the jury expenses. The judge will determine the amount of the bond.

If you are representing yourself (acting as your own attorney) you will be held to the same standard as an attorney.

The plaintiff will proceed first and may call witnesses and/or introduce exhibits. The defendant may cross-examine any witnesses or object to the admission of any exhibit. After the plaintiff rests the defendant will then present his case. The defendant may call witnesses and/or introduce exhibits that may prove or defend his position.

JUDGMENT

The party requesting a jury will be assessed jury fees if judgment is not found in favor of the requesting party.

DEFAULT JUDGMENT

If the defendant fails to appear in person or through counsel on the initial appearance date, and no continuance has been granted, the court will enter a default judgment against the defendant.

The plaintiff shall promptly mail or deliver a copy of the default judgment to the defendant.

SATISFACTION OF JUDGMENT

Once a judgment has been satisfied by the payment of the monetary award, or the parties have entered into a new rental agreement or created a novation (substituting an old obligation for a new one) of the prior rental agreement, the party in whose favor the judgment was entered shall file a *Satisfaction of Judgment* with the court that entered it and serve a copy on the judgment debtor.

The duty to file the satisfaction of judgment is on the prevailing party and not on the attorney who represented the party. In the event that a prevailing party fails to satisfy a judgment rendered and cannot be located with a showing of reasonable diligence, the judgment debtor may file a motion to compel satisfaction of judgment and the court may, after an opportunity for a hearing, order that the judgment shall be deemed satisfied.

APPEAL (A.R.S. § 12-1179; Rule 17, ARPEA; Superior Court Rules of Appellate Procedure)

Either party may appeal from a justice court judgment by filing a Notice of Appeal within five (5) calendar days from the date of judgment or prior to the issuance of the Writ of Restitution. The court cannot extend the time for appeal.

Cost Bond: The court shall set a cost bond at the time the notice of appeal is filed. The party filing the appeal (appellant) may petition the court to waive the cost bond if the appellant files a satisfactory affidavit of his or her inability to pay. Failure to pay the cost bond, unless waived by the court, is cause to dismiss the appeal.

Rent Pending Appeal: If the appellant wants to remain in possession of the premises while the appeal is pending, the appellant must pay to the clerk of the court any rent due apart from the amounts included in the judgment and continue paying additional rent as it becomes due during the appeal. Failure of the appellant to pay any rent due as it accrues is cause for the appellee to seek an order allowing it to enforce a writ of restitution, but shall not be cause for the dismissal of the appeal. In this event, the appeal will proceed despite the appellant's loss of possession of the premises while the appeal is pending.

Supersedeas Bond: If the appellant wants to stop the enforcement of the monetary portion of the judgment while the appeal is pending, he or she shall post a supersedeas bond in an amount equal to the dollar amount of the judgment being appealed. Failure to post a supersedeas bond shall allow the enforcement of the monetary portion of the judgment but shall not be cause for dismissal of the appeal.

Ask the court clerk for information regarding bonds and appeal costs.

WRIT OF RESTITUTION (Rule 14, ARPEA)

If judgment is entered the judge will order, among other things, that a Writ of Restitution will issue five (5) days from the date of judgment or, in the case of irreparable breach, not less than 12 nor more than 24 hours after judgment, or longer if the plaintiff so requests (or as soon thereafter as normal court hours allow). If the tenant does not move as ordered, the Writ will direct the constable to evict the tenant.

A party who obtains a judgment for possession shall have up to forty-five (45) days to apply for a Writ of Restitution.

INFORMATION REGARDING DEFENDANT'S RIGHTS IN EVICTION ACTIONS

The plaintiff is seeking return of the rental property because of your alleged non-compliance with the rental agreement or to terminate the rental agreement. An eviction action has been filed in this court. You should have been served with a copy of the plaintiff's complaint. The complaint alleges:

- ▶ That the property in dispute is located within the boundaries of the court's precinct.
- ▶ That the plaintiff is the owner of the property and is entitled to possession.

If you were not served with a copy of the complaint and summons and you appear at the initial appearance, your appearance shall constitute a waiver of any objections to the form or manner of service unless you assert those grounds at the initial appearance or in a previously filed written answer.

PAY & STAY

If the complaint has been filed pursuant to a 5-day notice for non-payment of rent, you can stay in the property **ONLY IF ALL RENT, LATE CHARGES AND COURT FEES ARE PAID IN FULL.**

AFTER JUDGMENT: Even if you pay the entire judgment amount the plaintiff may still proceed with the eviction.

THIS IS THE TIME FOR YOU TO ENTER A PLEA (Rule 7, ARPEA)

On or before the date you are to appear, you must answer, indicating whether you admit or deny the allegations of the complaint. If you do not know whether the allegation is true, you should state so in the answer. You must also include in the answer, any defenses you may have.

ADMITTING

If you plead guilty or no contest the court will proceed to determine:

1. If you received proper notice;
2. How much rent is due and owing through the end of the month;
3. What the plaintiff's court costs are, plus attorney fees, if allowed; and
4. When a Writ of Restitution will issue (five days from the date of judgment or 12-24 hours if the complaint alleges an "irreparable breach").

A plea admitting to the allegations of the complaint will result in a Judgment being entered against you. The judgment may include an order for:

- Unpaid rent through the end of the month;
- Reasonable late fees (only if provided for in a written agreement);
- Damages to the property resulting from failure to maintain the premises;
- Any unpaid utilities;
- Attorney fees if allowed (only if provided for in a written agreement);
- Court costs
- Annual interest on the unpaid judgment; and
- Possession of the property returned to the owner.

DENYING

If you plead not guilty the judge will ask you WHY. This will determine if your reason appears to be a legal defense that should be heard at trial. Non-payment of rent simply because you do not have the money (for whatever reason) is not a legal defense.

If the court determines that your defense or a proper counterclaim may exist, the court will order a trial. If the trial is continued to a later date, the judge may require you to file a written answer asserting your defenses. You will have to pay a filing fee when you file your answer. You must also provide a copy of your answer to the Plaintiff.

You will be asked to meet with the Plaintiff for a pre-trial conference to discuss settlement, define the issues for trial and disclose exhibits and witnesses you intend to present at trial. The trial will be tried at the end of today's Forcible Detainer calendar or, if time does not allow, the trial will be reset within three (3) business days.

COUNTERCLAIM (Rule 8, ARPEA)

A counterclaim may be considered in a Forcible Detainer action *only if* the counterclaim is the result of a breach of the rental agreement or the Arizona Residential Landlord & Tenant Act. A counterclaim is filed at the same time the Answer is filed.

THE TRIAL

If a jury trial is not requested the judge will hear the case. If you request a jury trial, at least one day before the scheduled trial, you may provide the court with your requested jury instructions (direction to the jury informing them of the rules or principles of law applicable to the case). If you are representing yourself (acting as your own attorney) you will be held to the same standard as an attorney. A losing party is required to pay the jury costs in addition to any judgment awarded.

The plaintiff will proceed first and may call witnesses and/or introduce exhibits. The defendant may cross-examine any witnesses or object to the admission of any exhibit. After the plaintiff rests the defendant will then present his case. The defendant may call witnesses and/or introduce exhibits that may prove or defend his position.

APPEAL

Either party may appeal from a justice court judgment by filing a Notice of Appeal within five (5) calendar days from the date of judgment or prior to the issuance of the Writ of Restitution. The court cannot extend the time for appeal. Ask the court clerk for information regarding bonds and appeal costs.

DEPOSIT

The landlord is required to provide you with an itemized list of all deductions made from any refundable deposit due you. If the landlord fails to do this the tenant may recover the amount of the deposit plus damages in an amount equal to twice the amount wrongfully withheld.

RESOURCES:

Pinal County Justice Courts website:

<http://pinalcountyaz.gov/Departments/JudicialBranch/JusticeCourts/Pages/Home.aspx>

Arizona Revised Statutes website:

<http://www.azleg.gov/ArizonaRevisedStatutes.asp>

Arizona Rules of Court website:

<http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>

The Arizona Residential Landlord Tenant Act:

http://www.azsos.gov/public_services/Publications/Residential_Landlord_Tenant_Act/

The Arizona Mobile Home Parks Residential Landlord Tenant Act:

http://www.azsos.gov/public_services/Publications/Mobile_Home_Landlord_Tenant_Act/

Pinal County Justice Courts, State of Arizona

EVICTION ACTION COMPLAINT YOUR LANDLORD IS SUING TO HAVE YOU EVICTED. PLEASE READ CAREFULLY.

Case Number: _____

_____ _____ _____ _____ Plaintiff(s) Name / Address / Phone	_____ _____ _____ _____ Defendant(s) Name / Address / Phone
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_____ _____ _____ _____ Plaintiff Attorney Name / Address / Phone / Bar No.	_____ _____ _____ _____ Defendant Attorney Name / Address / Phone / Bar No.
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Residential
 Mobile Home
 Commercial

1. I am the Plaintiff in this action
2. The property in question is located within the judicial precinct
3. The Plaintiff is entitled to possession of the following premises: _____
4. The Defendant wrongfully withholds possession of said premises
5. On _____ the Defendant was given written notice to vacate the premises by and was served in the following manner _____ (A copy of the notice is attached as an exhibit to the complaint)
6. The Plaintiff is authorized to file this action and has done so for the following reason(s):
 - a. **Non-payment of rent**
 Defendant has failed to pay rent as agreed. The rent has been unpaid since _____ and had a prior unpaid balance of _____
 The rental agreement requires rent to be paid each month on the _____ day of each month in the following amount: _____
 The lease provides for late fees and such late fees are calculated in the following manner: \$ _____ per _____
 Describe: _____
 - b. **Material non-compliance of rental agreement**
 Defendant committed, and has failed to remedy, a condition that is a material non-compliance of the rental agreement. Specifically, after receiving a notice to remedy the problem, the Defendant, on _____ (date) caused or allowed the following condition to occur: (see pg. 2 of complaint)
 - c. **Irreparable Breach**
 The Defendant has committed a material and irreparable breach. Specifically, on _____ (date) the Defendant did the following: (see pg. 2 of complaint)
 - d. **Other reason that entitles Plaintiff possession of the premises** (see pg. 2 of complaint)
7. Other: Rental concessions the plaintiff contends must be reimbursed (these must be included in the lease/rental agreement)

8. As of the date this action is filed, the Defendant owes the following:

Rent (current and past due amounts)	\$ _____
Late Fees:	_____
Rental Concessions:	_____
Costs: (filing fee, process service, certified mailing fee, etc.)	_____
Attorney's Fees:	_____
Other Damages:	_____
Total Amount Requested*	\$ _____

***Additional rent and late fees may be applied if judgment is not rendered before the next rent payment is due.**

The defendant may contact the plaintiff or plaintiff's attorney and may reinstate the lease agreement and cause the eviction action to be dismissed if, prior to the entry of judgment, the defendant pays all rents due, any reasonable late fees as written in the lease agreement, and any court costs and attorney fees the plaintiff has incurred as a result of the date the payment is made.

THEREFORE, the Plaintiff asks for judgment against the Defendant for the rent due, late charges, damages, restitution of the premises, Plaintiff's cost of the lawsuit and a Writ of Restitution to be issued in this matter.

I swear or affirm that I have read this information and that it is true and correct to the best of my knowledge.

SUBSCRIBED AND SWORN before me this date: _____

Affiant / Plaintiff

MY COMMISSION EXPIRES: _____

Notary Public / Clerk

REASONS FOR TERMINATION OF TENANCY (NON-MONETARY)

This section should only be used if box 6b, 6c or 6d is marked

If the plaintiff seeks a judgment for reasons permitted by law other than the non-payment of rent, the plaintiff shall state the reason for the termination of the tenancy with specific facts, including the amount owed, date(s), place(s) and circumstances of the reason for termination.

Pinal County Justice Courts, State of Arizona

EVICTION ACTION SUMMONS

Case Number: _____

Blank lines for case details and identification.

Plaintiff(s) Name / Address / Phone

Defendant(s) Name / Address / Phone

Blank lines for plaintiff information.

Blank lines for defendant information.

Plaintiff Attorney Name / Address / Phone / Bar No.

Defendant Attorney Name / Address / Phone / Bar No.

THE STATE OF ARIZONA TO THE ABOVE-NAMED DEFENDANT(S):

1. YOU ARE SUMMONED TO APPEAR and answer this complaint in the above-named court

TRIAL DATE: _____ TIME: _____

Be in court at least 15 minutes before the scheduled hearing / trial

- 2. IF YOU WISH TO ENTER A PLEA OF NOT GUILTY YOU MUST FILE A FORMAL WRITTEN ANSWER AND PAY THE REQUIRED ANSWER FEE ON OR BEFORE THE TIME SET FOR THE HEARING.
3. You must appear at the date and time shown above if you wish to contest the allegations of this complaint. You must be prepared for trial and be prepared to present all documents and witnesses needed to establish any claim, defense, or counterclaim you may assert.
4. IF YOU FAIL TO APPEAR OR FILE AN ANSWER a default judgment will likely be entered against you granting the relief requested in the complaint, including removing you from the property.
5. The Plaintiff must be given a copy of any answer or counterclaim you file.

Date: _____ Judge/Clerk: _____

CERTIFICATE OF SERVICE

Date Received: _____ Date Served: _____ Time Served: _____

Person Served: _____

Location where Served: _____

Precinct: _____ County: _____

I certify that I personally served this document and a copy of the Complaint in this action as stated above.

Constable/Process Server: _____

STATEMENT OF COSTS

Service Fee \$ _____ Mileage Fee \$ _____ Other \$ _____ Total \$ _____

Request for reasonable accommodations for persons with disabilities must be made to the court as soon as possible.

**RESIDENTIAL EVICTION ONLY
INFORMATION SHEET
(PUBLICATION AND DISTRIBUTION REQUIRED BY THE ARIZONA SUPREME COURT)**

Notice. A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed or with the summons.

Rent cases. If this lawsuit has been filed for not paying rent, the tenant can stop it and continue living in the residence by paying all rent now due, late fees, attorney's fees and court costs. After a judgment has been granted, reinstatement of the lease is solely in the landlord's discretion. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

Before Court. Eviction cases move through the court system very quickly. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The answer form available from the justice court allows the tenant to admit or deny the allegations and explain his or her position. If the tenant cannot afford to pay the answer fee, he or she may apply for a waiver or deferral of that fee. If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed, but due to the high volume of cases, a trial may not occur then. If the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can represent themselves or arrange for lawyers to represent them. The court will not provide a lawyer.

At Court. At the time and date listed on the summons, the judge will start calling cases. If both parties are present, the judge will ask the tenant whether the complaint is true. If the tenant says "no", he or she will need to briefly tell the judge why. If the reason is a legal defense, the judge will need to hear testimony from both sides and make a decision after a trial. After talking to the landlord or its attorney, a tenant may wish to agree to what the landlord is requesting by signing a "stipulation". A stipulation is an agreement under which the parties resolve the dispute on the basis of what the agreement says. Only matters contained in the written agreement can be enforced. These agreements should be clear and understandable by both parties. Most stipulations include judgments against tenants.

Continuances. Either party may ask that the court date be delayed. The court will agree only if there is a very good reason. A delay will be no more than three business days. There is no assurance a delay will be granted and parties should come to court prepared for trial and bring necessary witnesses and documents.

After a Judgment. If a landlord receives a judgment, it may apply for a writ of restitution to remove the tenant(s) and all occupants. Writs of Restitution are served by constables, who will direct the residents to leave. A tenant may avoid the difficulties associated with a writ of restitution by vacating the property and returning the keys to the landlord. This ends the tenants' possession of the residence. A tenant will have five (5) days to vacate the premises unless the court has found a material and irreparable breach of the lease by the tenant, in which case the tenant has only twelve (12) to twenty-four (24) hours to vacate. A judgment will probably appear on a tenant's credit report for several years. Parties wishing to appeal from a judgment have five days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay an appropriate bond and continue to pay rent into court as it becomes due. If the tenant prevails the court will dismiss the case. Absent an appeal, the tenant will need to obtain the landlord's approval and enter a new lease to continue living in the residence.

Sources of Additional Information. You can get copies of the Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act from a library or from the Secretary of State's office or web page: www.azsos.gov. In Maricopa County if you wish to consult an attorney, you may want to contact the Arizona State Bar Attorney Referrals Line at (602) 257-4434 or Community Legal Services at (602) 258-3434. Contact the court in other counties for similar referrals. You can obtain a summary of the obligations of landlords and tenants on the web page for justice courts in Maricopa County: www.superiorcourt.maricopa.gov/justicecourts/info.

