

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, at the direction of the Chief Judge, and in light of the ongoing public health and commercial concerns raised by the COVID-19 health emergency, I hereby direct that:

(1) petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall include a Notice to Respondent Tenant in the form attached as Exh. 1 (if filing within the City of New York) or Exh. 2 (if filing outside the City of New York), printed on colored paper to enhance its distinctiveness and effectiveness; and

(2) filing and service of process in eviction proceedings shall be governed by AO/267/20.

This order shall take effect immediately, and shall supersede the provisions of any prior administrative order inconsistent with its terms.



Chief Administrative Judge

Dated: November 17, 2020

AO/268/20

EXHIBIT 1

NOTICE TO RESPONDENT TENANT

**DURING THE CORONAVIRUS EMERGENCY,
YOU MIGHT BE ENTITLED BY LAW TO SPECIAL
DEFENSES AND PROTECTIONS RELATING TO
EVICTIONS.**

**PLEASE CONTACT YOUR ATTORNEY
IMMEDIATELY FOR MORE INFORMATION.**

**IF YOU DON'T HAVE AN ATTORNEY, PLEASE
CALL**

718-557-1379

OR VISIT

www.nycourts.gov/evictions/nyc/

AVISO A INQUILINO DEMANDADO

**DURANTE LA EMERGENCIA POR CORONA
VIRUS, PUEDA QUE POR LEY USTED TENGA
DERECHO A DEFENSAS Y PROTECCIONES
ESPECIALES RELACIONADAS CON
DESALOJOS.**

**POR FAVOR COMUNIQUESE CON SU
ABOGADO INMEDIATAMENTE PARA OBTENER
MAS INFORMACIÓN.**

SI NO TIENE ABOGADO, LLAME AL

718-557-1379

O VISITE

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EXHIBIT 2

NOTICE TO RESPONDENT TENANT

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Attachment D

State of New York
Unified Court System



Lawrence K. Marks
Chief Administrative Judge

25 Beaver Street
New York, N.Y. 10004
(212) 428-2100

MEMORANDUM

October 9, 2020

To: Hon. George J. Silver
Hon. Vito C. Caruso
Hon. Anthony Cannataro

From: Lawrence K. Marks *LKM*

Subject: Revised Procedure for Addressing Residential Eviction Proceedings

Continuing our progress towards the fuller resumption of court operations, attached please find a copy of AO/231/20 (Attachment A), which amends the protocol for handling residential eviction proceedings in several significant respects.

1. Effective October 12, 2020, all residential eviction matters – nonpayment and holdover, without regard to the date of commencement – may resume statewide, with certain important caveats:

(a) Suspension of Statutory Time Limits: At this time, all proceedings continue to be governed by the suspension of “any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state,” set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, 202.55, 202.60, and 202.67 (Attachment B).¹ So long as this suspension of time limits continues, no default judgment may be entered upon the failure of a respondent to answer a petition in an eviction matter.

(b) Scheduling Once Issue Has Been Joined: Once a matter has been filed and answered, the further hearing of an eviction proceeding remains subject to local court circumstances and health/safety assessments for courthouse use. The safety of judges, non-judicial personnel, and court visitors remains the paramount concern in all court operations. Given the ongoing need to restrict foot traffic in courthouses for reasons of health and safety, we anticipate that the scheduling, hearing and issuance of decisions in

¹ Executive Order 202.67 extended this suspension to November 3, 2020.

eviction matters will often require far lengthier time periods than anticipated in statutes and prevalent under pre-COVID conditions.

(c) Pre-March 17 Residential Matters: The requirement of a status or settlement conference set forth in AO/160A/20 remains in effect for residential eviction matters commenced prior to March 17 – including matters in which judgments and warrants of eviction have issued and been delivered to enforcement agents (but not yet executed). Post-March 16 eviction matters are to be handled in the normal course.

(d) Alternative Dispute Resolution: While mediation of eviction matters can be a highly useful practice and is strongly encouraged, it may be inadvisable in cases where one party is represented by counsel and another (generally the tenant) is unrepresented.

(e) Remedies- Prohibition of Evictions – State Law and Executive Order: Evictions of residential tenants who meet criteria set forth in the Tenant Safe Harbor Act (L. 2020, c. 127), as modified by Executive Order 202.66 (Attachment C), are prohibited through January 1, 2021 (the date specified in EO 202.66). This prohibition now bars the execution or enforcement of residential warrants of eviction or judgments of possession without regard to their date of issuance.

Two aspects of the Executive Order’s modification of the Act are noteworthy: the scope of the Tenant Safe Harbor Act is limited to nonpayment cases, while EO 202.66 applies to “any residential tenant;” and the Act prohibits issuance of warrants of eviction and judgments of possession, while the EO prohibits “execution or enforcement” of such judgments and warrants. This terminology may require future judicial interpretation.

(f) Remedies - Prohibition of Evictions – CDC Order: The Centers for Disease Control order of September 4, 2020 (Attachment D) prohibits eviction of any “covered person” from residential property for nonpayment of rent through December 31, 2020. The CDC order defines covered persons as tenants or residents who file a declaration with their landlord affirming that they meet specified income limits and other financial and COVID-related requirements. The order allows eviction for reasons other than nonpayment, including damaging the premises, threatening the health and safety of others, violating building codes, and the like.

3. Filing and service of documents in eviction proceedings continue to be governed by AO/121/20. Consequently, initiating documents by represented petitioners must be filed through NYSCEF or mail only at this time. (Unrepresented parties may file papers in person.)
4. Commencement papers in residential eviction proceedings must continue to include a notice indicating that respondent-tenants may be eligible for an extension of time to respond to the complaint (Attachment A, Exh. 1).

Please distribute this memorandum and attachments to judges and non-judicial staff as you deem appropriate.

Attachments

c: Administrative Judges