

Legal Alert: New Directives and Procedures for New York Housing Courts

January 17, 2022

As you are aware, the COVID-19 Emergency Eviction and Foreclosure Prevention Act ("CEEFPA") and the COVID-19 Emergency Protect Our Small Businesses Act ("CEPOSBA") both expired on January 15, 2022, and are not being further extended by the State. This means that Hardship Declarations will no longer have to be served with any notices or petitions in order to commence cases, and they will no longer stay any proceedings. As a result of the elimination of the stay, the New York State court system has instituted new directives and procedures *for both Residential and Commercial Landlord-Tenant proceedings*. A summary of said directives and procedures can be found below.

Proceedings Filed Before March 17, 2020

- Cases commenced prior to March 17, 2020 continue to require a settlement conference, upon motion, before the court in order for the case to proceed.
- In those cases where judgments of possession were issued prior to March 17, 2020, all requests for issuance of a warrant of eviction must continue to be made via motion.
- In those cases where warrants were issued prior to March 17, 2020, execution can only be sought by motion to the court.

Proceedings Filed After March 16, 2020

Warrant Requisition

- In those cases where judgments of possession were issued after March 16, 2020, but prior to September 2, 2021, all requests for issuance of a warrant of eviction must be made via motion. In those cases where warrants were issued prior to September 2, 2021, execution can only be sought by motion to the court.
- In those cases where warrants have issued after September 2, 2021, those warrants may be considered presumptively valid and may be executed.
- Warrants issued with specific language pursuant to CEEFPA or CEPOSBA are presumptively valid if they were properly issued under the former legislation, however, new warrants need not include any specific language formerly required.

Default Judgments

- Landlords are still required to make a motion seeking the issuance of a default judgment.

Proceedings Formerly Stayed by Hardship Declarations

- Cases that have been stayed as a result of the filing of a hardship declaration shall be restored to the calendar by the Court. However, those cases in which a tenant has filed for ERAP funds, and a determination has not yet been rendered, remain stayed.
- The filing of a hardship declaration may be deemed *prima facie* evidence of a hardship under the Tenant Safe Harbor Act ("TSHA") *in residential matters only*. This defense applies only to the "covered period", which is March 7, 2020 through June 15, 2021. The TSHA is still in effect throughout the State.

Of course, this is an extremely fluid situation and we will continue to keep you apprised of how the courts are implementing the above directives and procedures. Should you wish to discuss moving forward with any of your cases previously stayed under these expired acts, or if you have any questions about anything discussed herein, please reach out to one of our attorneys.