

Legal Alert: Housing Court Update Administrative Order Amends Protocol for Handling Residential Eviction Proceedings

October 12, 2020

Chief Administrative Judge Lawrence Marks has issued Administrative Order 231/20 (AO 231/20) which addresses the protocol for handling residential eviction proceedings in light of the recent Executive Order issued by the Governor. The relevant and pertinent points raised in Justice Marks' Order are set forth below:

- a. Governor Cuomo's Executive Order 202.67 suspends through November 3, 2020 "any specific time limit for the commencement, filing or service of any legal action, notice, motion, or other process or proceeding." During this suspension period and any extension thereof, no default judgment may be entered upon the failure of a tenant to answer the petition.
- b. The hearing of eviction proceedings is subject to the health/safety assessments of the local courts. Meaning the courts will decide whether matters will be heard in-person or remotely. At this time, the courts within New York City are continuing video conferences of cases, but have started allowing in-person trials. The courts in Westchester, Nassau and Suffolk, are for the most part conducting all proceedings in person.
- c. The Order makes note of the fact that it is going to be up to the individual judges to decide how to apply Governor Cuomo's Executive Order 202.66 which modified the Tenant Safe Harbor Act (TSHA). For example, the TSHA specifically states it applies only to non-payment proceedings where the Executive Order applies to "any residential tenant." This may result in a judge staying execution of a warrant issued in a holdover proceeding until January 1, 2021. Likewise, it could result in a delay in enforcing money judgments issued in non-payment proceedings, if judges decide to apply the January 1, 2021 moratorium imposed by the Governor in those cases. It remains to be seen how individual judges are going to interpret the Governor's Order.

The Order further states that all residential proceedings, both non-payments and holdovers may continue to proceed in what is now the new normal course, i.e., we may continue to commence proceedings; make motions for the issuance/execution of warrants where judgments issued prior to March 17, 2020; participate in remote conferences with the court; and proceed to trial on cases which were assigned to a trial part prior to the pandemic.

If you have any questions concerning this Administrative Order or any other issues you wish to discuss, please feel free to contact any one of our attorneys. As always, we shall continue to keep you updated on any new developments.