

Legal Alert: Housing Court Update During Pandemic

August 13, 2020

The Chief Judge of the State of New York has issued a new Order, AO 160/20, allowing Landlords to move forward on all eviction proceedings throughout the entire state that were filed before March 17, 2020. Accordingly, the Administrative Judge of the Civil Court of the City of New York has also issued a Directive which sets forth the procedures for moving these cases forward in the five boroughs.

Effective August 13, 2020, residential and commercial eviction matters commenced prior to March 17, 2020 throughout the entire state may be resumed, subject to any limitations addressed by Governor Cuomo's Executive Orders and/or the Tenant Safe Harbor Act.

Warrants In Cases Filed Before March 17, 2020:

a. **Where no warrant has issued:** In residential matters, the court may issue warrants of eviction in any matter where a judgment of possession was entered prior to March 17, 2020, upon notice of motion filed with the Court and served by regular mail and/or email upon the tenant. After hearing the motion via conference, the Court, in its discretion (and considering COVID-19 related concerns pertaining to the tenant), will determine whether or not the matter may move forward. The Court will endeavor to hear these motions remotely. Please note that commercial proceedings may move forward without the need for a motion.

b. **Where warrants have issued:** In residential matters, any landlord seeking to execute a warrant of eviction must first seek permission from the Court via notice of motion served upon the tenant by regular mail and/or email. After hearing the motion via conference, the Court, in its discretion (and considering COVID-19 related concerns pertaining to the tenant), will determine whether or not the matter may move forward. The Court will endeavor to hear these motions remotely. Please note that commercial proceedings may move forward without the need for a motion.

c. **Evictions:** No residential eviction may occur prior to October 1, 2020, or any such later date as may be determined by any future federal or state laws. Commercial evictions remain stayed until September 4, 2020 in accordance with Executive Order 202.28 and 202.55.

Defaults In Cases Filed Before March 17, 2020:

a. **In Matters Where an Appearance was Previously Made or an Answer Filed:** All parties (or their attorneys) are required to appear for any scheduled remote or in-person court appearance. Upon failure to appear, the judge may reschedule the appearance with a "final" marking; resolve issues or claims against the non-appearing party; impose sanctions or issue a judgment of contempt.

b. **In Matters Where a Party Fails to Answer or Submit Responsive Papers to a Motion:** No default shall be taken.

Eviction Cases Filed After March 17, 2020: All residential and commercial non-payment and holdover proceedings continue to be suspended. However, cases in which all parties are represented by counsel

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shall be eligible for calendaring for virtual settlement conferences. At this point, however, there has been no directive issued which provides guidance on when we can expect these matters to be heard or the mechanism by which the conference can be scheduled.

Please note: The foregoing is the procedure which has been established within the five boroughs of New York City. We have yet to receive any guidance with regard to Nassau, Suffolk and Westchester Counties. We shall advise you to those procedures as we are notified.