IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
DISPOSITION OF RESIDENTIAL	)	Administrative Order
EVICTION CASES RELATED TO THE	)	No. 2021 - 19
PUBLIC HEALTH EMERGENCY	)	(Replacing Administrative
	)	Order No. 2020-229)
	)	

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide public health emergency on March 11, 2020.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The CARES Act required a temporary moratorium on evictions from public housing, federally subsidized rental housing, and rental housing with federally-backed mortgages, as well as a ban on accrual during the moratorium of fees, penalties, and interest related to nonpayment of rent. While the CARES Act eviction moratorium has expired, certain tenant protections related to the accrual of fees, penalties, and interest on unpaid rent remain in effect.

The Centers for Disease Control and Prevention (CDC) issued an order entitled "Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19" effective September 4, 2020 through December 31, 2020 (CDC No. 2020-19654, 85 Fed. Reg. 55292 (Sept. 4, 2020)) (CDC order). This Order prohibited a landlord from taking any action to evict for nonpayment of rent a residential tenant who provided the landlord a declaration under the order. The CDC order also provided: "Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized . . . to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order." The Congress has passed and the President signed into law the "Coronavirus Response and Relief Supplemental Appropriations Act, 2021." The Act extended the CDC moratorium through January 31, 2021. The CDC extended the moratorium through March 31, 2021.

Given the ongoing threat to public health and safety, certain limitations and changes in court operations remain necessary including the effective management of residential eviction filings for nonpayment of rent. This Administrative Order implements federal law and CDC orders by providing direction to facilitate the orderly and safe disposition of eviction cases in Arizona courts consistent with this Court's constitutional, administrative and supervisory authority over the courts, authority to adopt emergency temporary court procedures, and authority to regulate the practice of law in the context of the COVID-19 pandemic health emergency.

Therefore, considering the applicable federal law and the statewide public health emergency declared by the Governor, pursuant to Article VI, Sections 3 and 5, of the Arizona Constitution,

IT IS ORDERED that the following procedures are applicable to eviction actions governed by Arizona Revised Statutes, Title 33 and filed in the superior court or a justice court:

I. PLEADINGS

1. The plaintiff in a residential eviction action for non-payment of rent must attest in the initial pleading or by other writing filed with the court and served on the defendant along with the initial pleading whether:

    a. The claim is for any time between March 27, 2020 and July 24, 2020 and, if so, whether the property in which the defendant resided was covered under the CARES Act.
    b. The plaintiff received from a tenant, lessee, or resident of the residential property a declaration under the CDC order entitled "Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19."
    c. The plaintiff has applied for or has received rental assistance from any source based on defendant's rental obligation. If so, plaintiff must state in the pleading and the accounting of payments the amount received and how it has been applied toward the obligation.
    d. The plaintiff obtained a prior judgment against the defendant during an eviction moratorium which judgment has not been vacated. If so, the plaintiff must state the current damages claimed are exclusive of the damages awarded in the prior judgment.

2. The Residential Eviction Information Sheet required to be served with the summons and complaint under Rule 5(a)(5) of the Rules of Procedure for Eviction Actions is supplemented by the addition of a one-page notice entitled "Information On Temporary Halt In Residential Eviction For Nonpayment Of Rent" with substantially the form and content included as Attachment A of this Order. Plaintiffs in eviction actions who claim nonpayment of rent, penalty, or interest must serve this supplemental notice with the summons and complaint until the CDC order expires.

II. CASE CALENDARING

1. A court should not schedule more than 25 eviction cases in an hour on the court's calendar and shall allocate sufficient time for all parties appearing telephonically or in person to present their evidence.

2. Each case shall be scheduled to be heard during a specific one-hour time slot, e.g., 9:00 A.M. - 10:00 A.M.

3. Courts should schedule residential eviction actions within the timeframes established by the Rules of Procedure for Eviction Actions and by applicable Arizona statutes.

III. HEARINGS

1. Parties, attorneys, and witnesses in an eviction proceeding shall be permitted to participate remotely by telephone or video conference, at their discretion.

2. Judges shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are unable to participate in a proceeding due to the COVID-19 pandemic.

3. To implement the CDC order in a consistent manner throughout the state, effective February 6, 2021, judges shall proceed with the initial appearance, unless there is good cause for a continuance to allow the defendant to file a CDC declaration. If a requested continuance is not granted, the court shall inform the parties that the defendant may still provide a CDC declaration to the plaintiff that will stop the eviction.

4. At each hearing, the court shall inquire as to plaintiff's compliance with all requirements of applicable state and federal statutes and executive and administrative orders, including whether the plaintiff received a declaration under the CDC moratorium.

5. With the agreement of the parties, the judge may continue a proceeding to afford the parties the opportunity to reach an agreement to resolve the case. Upon such an agreement, the judge may order the conditional dismissal of the case. A sample order is included with this Administrative Order as Attachment B. The Administrative Director is authorized to approve amendments to this form.

6. On notice to the court that the defendant has provided the plaintiff a declaration under the CDC order in an eviction action to terminate a tenancy for nonpayment of rent, the court must either continue the action or permit the action to proceed to judgment as provided in subsection III.7 and, if the plaintiff prevails, stay the issuance of a writ of restitution until further order unless:

    a. The plaintiff files a motion contesting the declaration. The motion must provide a factual basis, not on information and belief, that supports the allegation that one or more specific statements in the declaration is materially inaccurate.
    b. The judge determines based on the motion that a hearing is warranted to determine the accuracy of allegations in the motion.
    c. The judge finds that the plaintiff proved at the hearing by a preponderance of the evidence that any statement identified in the motion is materially inaccurate, and
    d. The judge states at the hearing the reason for each finding and orders that the eviction may proceed.

7. Effective February 6, 2021, to bring consistency to adjudication of eviction cases, unless a writ is issued under III.6, if the defendant agrees to apply and the court believes the defendant may qualify for federal rental assistance, the court shall continue the

action for 30 days unless there is otherwise good cause to proceed. An additional continuance shall be granted if the court determines the application process is underway. If the court determines that the defendant is not likely to qualify or has not made reasonable efforts to obtain rental assistance, the court shall permit the case to proceed.

8. As provided in the CDC order, the CDC order is not applicable to an eviction action based on a tenant, lessee, or resident: "(1) engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest)." The CDC order applies unless an asserted violation of an "other contractual obligation" is proven to be material noncompliance with the rental agreement or, for a forcible detainer action, a material and irreparable breach of the rental agreement under Arizona law. A judge shall provide written findings establishing noncompliance or breach in any judgment or order of eviction.

9. Termination of a periodic tenancy is presumed to be due to nonpayment of rent, if unpaid rent, a penalty or interest is owed. The CDC order applies unless the plaintiff proves the termination was for a reason other than nonpayment of rent, penalties, or interest.

10. Effective February 13, 2021, to clearly describe what the court has decided at the initial appearance and where and how parties may obtain further assistance and relief, at the end of the initial appearance, the judge shall complete a Pandemic Minute Entry with the appropriate option selected using language substantially equivalent to the following:

    This eviction matter came before the Court on _____, 2021.

    IT IS ORDERED

    ☐ Defendant has signed a CDC Declaration and this matter is therefore continued to _____, 2021. The parties should ensure that their mailing addresses, emails and phone numbers are up-to-date with the court; monitor and read their mail and email closely; and participate in their court dates.

    ☐ Judgment has been entered but there has been a CDC Declaration, so a writ shall not issue (defendants will not be removed) until the CDC Order expires. Tenants do NOT need to leave the property at this time. The landlord may ask the court to have the defendants removed after the CDC protection expires (currently March 31, 2021)

OR the landlord may file a motion to remove defendants sooner if the landlord believes it can prove that the CDC Declaration is false. The parties should ensure that their mailing addresses, emails and phone numbers are up-to-date with the court; monitor and read their mail and email closely; and participate in their court dates.

☐ There was no evidence of a signed CDC Declaration, and judgment has been entered this day. However, tenants may be able to prevent the constable from enforcing a writ (removing the tenants) if a CDC Declaration is completed and provided to the landlord and the constable prior to removal from the property. The parties should ensure that their mailing addresses, emails and phone numbers are up-to-date with the court; monitor and read their mail and email closely; and participate in their court dates.

IV. AMENDMENT OF JUDGMENTS AND ENFORCEMENT OF WRITS OF RESTITUTION

1. At the appropriate time, the Court will set for hearing any pending eviction cases continued due to the CDC order. After the expiration of the CDC order, a plaintiff who received an eviction judgment but could not have a writ issued due to the CDC order may apply to the court for a writ of restitution using the procedure provided in Rule 14(b)(2) of the Rules of Procedure for Eviction Actions.

2. On motion of the plaintiff and an opportunity for response by the defendant, for good cause, the court shall amend the eviction judgment to reflect:

    a. Any unpaid rent, late fees, or interest that would have been due under the terms of the lease that was the subject of the eviction for the period since the judgment was entered.
    b. Any rental assistance received from any source based on the defendant's rental obligation.

3. An order granting the motion or issuing a writ must not permit execution of a writ of restitution until five days after the order is issued.

V. EXCLUDED TIME CALCULATION

The period of March 18, 2020 through May 15, 2021 is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be held within a specific period of time, including the Rules of Procedure for Eviction Actions. This exclusion of time does not apply to the issuance of the writ of restitution.

VI. JUDICIAL OFFICER TRAINING

The Administrative Office of the Courts (AOC) shall provide judicial officer training on scheduling, diversion, adjudication and disposition of eviction cases in the context of the COVID-19 public health emergency, addressing this Administrative Order, the CARES

Act or other federal law, the CDC order, and judicial best practices. All judicial officers, including judges pro tempore, who hear eviction cases must complete such training.

IT IS FURTHER ORDERED that the provisions of Administrative Order No. 2020-197 and any successor orders concerning matters not addressed in this order also apply to the processing of eviction cases.

Dated this 1st day of February, 2021.

_____

ROBERT BRUTINEL
Chief Justice

ATTACHMENT A

ATTENTION TENANTS ATTENTION TENANTS

YOU CAN ASK FOR FREE LEGAL HELP BY CONTACTING:
(These legal help programs are not part of the court.)

COUNTY OR TOWN			CONTACT INFORMATION
Maricopa County Mohave County	La Paz County Yavapai County	Yuma County Town of San Luis	**Community Legal Services** **l-800-852-9075** **www.clsaz.org**
Apache County Cochise County Gila County	Graham County Greenlee County Navajo County	Pima County Pinal County Santa Cruz County	**Southern Arizona Legal Aid** **1-800-248-6789 or** **www.sazlegalaid.org**
Coconino County			**DNA People's Legal Services** **1-800-789-5781** **www.dnalegalservices.org**

INFORMATION ON TEMPORARY HALT IN RESIDENTIAL EVICTION FOR NONPAYMENT OF RENT

You may have a **right to stay in your home** through March 31, 2021 even though you are unable to pay all of your rent during this time; but only if you can **accurately** and **truthfully** make **all five** of the following statements and you give your landlord a paper called a **declaration** that contains them.

1) You are using your best efforts to obtain all available government assistance for rent or housing;

2) You either (i) expect to earn no more than $99,000 during the 2020 Calendar Year (or no more than $198,000 when you file a joint tax return), (ii) were not required to report any income in 2019 to the IRS, or (iii) received an Economic Impact Payment (stimulus check) under the CARES Act;

3) You are unable to pay the full rent or make a full housing payment due to a large loss of household income, loss of normally paid hours or wages, a lay-off, or out-of-pocket medical expenses more than 7.5% of your total income;

4) You are using your best efforts to make timely partial payments that are as close to the full payment as your circumstances may permit, taking into account other bills you have to pay; and

5) If evicted you would likely be homeless or be forced to move into a crowded living space such as a shelter or a residence with other people because you have no other available place to live for the same or lower cost.

You can get a declaration form on the web at https://www.azcourts.gov/eviction or https://www.azcourthelp.org, at a rent assistance office, or at your local justice court. Please read it carefully. If you sign the declaration when you know any statement is false you may be charged and convicted with a felony and be required to pay a large fine or even be sent to jail.

If your landlord provides the judge a reason to believe based on evidence that any of the five statements in the declaration are not accurate, the court may schedule a hearing. At this hearing, before you can be evicted for nonpayment of rent, your landlord must prove at least one of the statements is not accurate.

You may explain why you believe it is accurate and provide any documents you have that support your belief. Then the judge will decide whether to let you stay in your home or order you to move out because you have not kept up with your rent payments.

ATTACHMENT B

For Clerk's Use Only

Attorney for Plaintiff / Address / Phone / Email / Fax / Bar Number

JUSTICE COURTS, ARIZONA

Case Number: _____

Plaintiff(s) Name / Address / Phone

Defendant(s) Name / Address / Phone

CONSENT ORDER FOR CONDITIONAL DISMISSAL (*Eviction Action*)

THE COURT FINDS:

1. The parties agree to the conditional dismissal of the case under the terms below.
2. Defendant must pay the following to Plaintiff on or before _____.

a.1.	$ _____	Unpaid rent (non-subsidized rent)	due through the time period ending _____
	- OR -		
a.2.	$ _____	Unpaid rent (subsidized rent- tenant's portion only)	
b.	$ _____	Late fees	
c.	$ _____	Utilities	
d.	$ _____	Other fees or charges (Add more lines for specific fees and charges)	
e.	$ _____	Rental concessions	
f.	$ _____	Court cost	
g.	$ _____	Other damages	
h.	$ _____	Attorney fees	

i. $ _____ **TOTAL**

3. If Defendant fails to pay the rent and other costs as set forth above, this action will be reinstated upon the Plaintiff's submission of an Affidavit of Default, a Judgment for money (if eligible and requested in the complaint), and a Writ of Restitution, which will enter simultaneously without notice or further process.*

   ** For a defendant on active military duty, default judgment will not be entered except as provided by the Servicemembers Civil Relief Act.*

4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by any other third party within the time period provided by this order.
5. The Defendant may be liable for money damages if additional rent is owed or if there is damage to the property.
6. [ ] Partial payment by Defendant of the amount due in item 2i above will not prevent issuance of a Writ of Restitution should a Judgment enter after default on this conditional dismissal.
7. A Writ of Restitution may not be submitted for entry more than _____ days after the last payment is due under this conditional dismissal.
8. [ ] Further conditions: _____

_____

_____

IT IS ORDERED:

1. The case is dismissed without prejudice subject to the conditions below.
2. Defendant must pay the following to Plaintiff on or before _____.

a.1.	$ _____	Unpaid rent (non-subsidized rent)	due through the time period ending _____
	- OR -		
a.2.	$ _____	Unpaid rent (subsidized rent- tenant's portion only)	
b.	$ _____	Late fees	
c.	$ _____	Utilities	
d.	$ _____	Other fees or charges (Add more lines for specific fees and charges)	
e.	$ _____	Rental concessions	
f.	$ _____	Court cost	
g.	$ _____	Other damages	
h.	$ _____	Attorney fees	

i. $ _____ **TOTAL**

3. In the event Defendant fails to pay the rent and other costs as set forth above, then Plaintiff will submit an affidavit of default, a Judgment for money (if eligible and requested in the complaint), and a Writ of Restitution, which will enter simultaneously without notice or further process.
4. Defendant remains responsible for paying the entire amount as stated in the order below that is not paid by any other third party within the time period provided by this order.
5. The Defendant may be liable for money damages if additional rent is owed or if there is damage to the property.
6. [ ] Partial payment by Defendant of the amount due in item 2i above will not prevent issuance of a Writ of Restitution should a Judgment enter after default on this conditional dismissal.
7. A Writ of Restitution may not be submitted for entry more than _____ days after the last payment is due under this order.
8. [ ] Further conditions: _____

_____

_____

_____ _____

Date Judge's Signature

Approved as to form and content.

_____ _____

Plaintiff Signature and Date Defendant Signature and Date

_____ _____

Plaintiff's Attorney Signature and Date Defendant's Attorney Signature and Date