# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9109

**TWENTY-FIFTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER**

**ORDERED** that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This Order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. Paragraphs 3 and 4 of the Twenty-Fourth Emergency Order (Misc. Dkt. No. 20-9097), issued August 21, 2020, are renewed as amended.

3. In any action for eviction to recover possession of residential property under Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure:

a. a sworn original, amended, or supplemental petition containing "a description of the facts and grounds for eviction" required by Texas Rule of Civil Procedure 510.3(a)(2) must state whether or not:

i. the premises are a "covered dwelling" subject to Section 4024 of the CARES Act;

ii. the plaintiff is a "multifamily borrower" under forbearance subject to Section 4023 of the CARES Act;

iii. the plaintiff has provided the defendant with 30 days' notice to vacate under Sections 4024(c) and 4023(e) of the CARES Act; and

iv. the defendant has provided the plaintiff with a declaration under the Centers for Disease Control and Prevention's agency order, titled Temporary Halt

in Residential Evictions to Prevent the Further Spread of COVID-19, ("CDC Order") that took effect on September 4, 2020;

b. in addition to the contents required by Texas Rule of Civil Procedure 510.4(a), the citation must include:

i. the following statement: "The Centers for Disease Control issued an order stopping some evictions. You may be able to stop your eviction if you sign the attached Declaration under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19 and provide it to your landlord and the court. Before signing the Declaration, read it carefully and make sure all the statements are true. The Declaration is sworn, meaning you can be prosecuted, go to jail, or pay a fine if any of the statements are not true. Find out more about the order at TexasLawHelp.org."; and

ii. a copy of the declaration form, titled Declaration under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19, ("CDC Declaration") that is attached to the CDC's Order or a similar declaration form;

c. a judge continues to have the authority under Texas Rule of Civil Procedure 500.6 to develop the facts of the case, including the authority to question:

i. whether the premises is a "covered dwelling" and the plaintiff is a "multifamily borrower" under forbearance subject to Sections 4024 and 4023 of the CARES Act, respectively; and

ii. whether the defendant is aware of the CDC Order and has had an opportunity to complete the CDC Declaration or a similar declaration; and

d. if a defendant provides the CDC Declaration or a similar declaration to the plaintiff after a petition is filed:

i. the defendant must file the declaration with the court and serve a copy of the declaration on the plaintiff; and

ii. the court must abate the eviction action, including the issuance and execution of any writ of possession under Texas Rule of Civil Procedure 510.8(d),

except as provided in Paragraph 4.

4. An eviction action covered by Paragraph 3(d) may nevertheless proceed if, but only if:

a. the plaintiff contests the defendant's declaration or the CDC Order;

b. the judge holds a hearing to determine whether the action should proceed; and

c. the judge determines that the action should proceed and signs a written order stating:

i. the reasons for the determination that the action should proceed; and

ii. procedures for the action to proceed.

5. This Order is effective immediately and expires December 15, unless extended by the Chief Justice of the Supreme Court.

6. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on www.txcourts.gov;

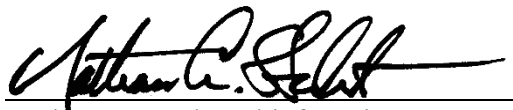
b. file a copy of this Order with the Secretary of State; and

c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

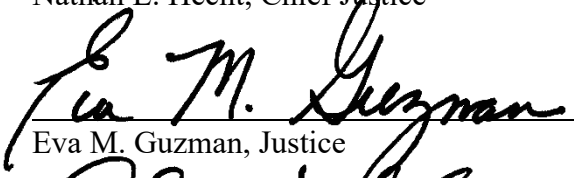
7. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

Dated: September 17, 2020

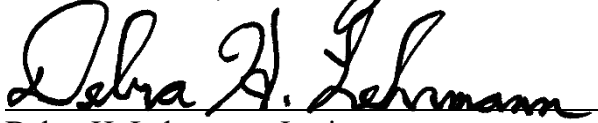
JUSTICE DEVINE and JUSTICE BLACKLOCK dissent.



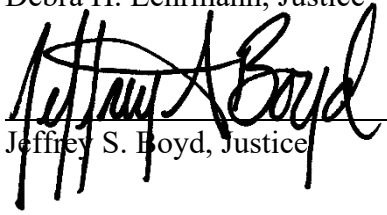
Nathan L. Hecht, Chief Justice



Eva M. Guzman, Justice



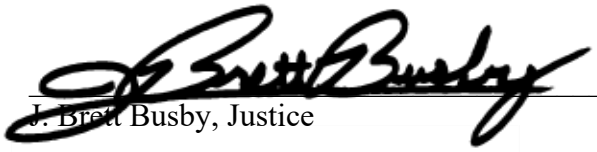
Debra H. Lehrmann, Justice



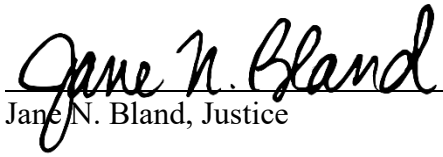
Jeffrey S. Boyd, Justice

John P. Devine, Justice

James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice