PMO-SJC-6

STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER

Order Issued July 21, 2020
(revised July 23, 2020)

Emergency Rules from the Supreme Judicial Court for Forcible Entry and Detainer (Eviction) Cases

On March 13, 2020, the Supreme Judicial Court issued an Emergency Order suspending Forcible Entry and Detainer ("eviction") cases. That Order was later modified by PMO-SJC-1 and again by the State of Maine Judicial Branch COVID-19 Phased Management Plan (the "Plan") issued on May 27, 2020. The court has not scheduled or heard eviction cases since March 13, 2020.[1] The Plan provides that beginning in Phase 4 (August 3-September 4, 2020), the Court will lift the restriction on scheduling and hearing evictions.

To aid individuals and businesses harmed by the pandemic, the federal government enacted the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. §§9057 & 9058) (the "CARES Act"). The CARES Act provides a temporary moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally-related financing. Various other federal agencies and programs also issued moratoria on foreclosures and evictions for certain covered dwellings. Plaintiffs in Maine seeking to recover possession of property through eviction actions may be subject to the federal moratoria on evictions imposed through the CARES Act and by other federal agencies and programs. Actions subject to the federal moratoria include property considered to be "covered dwellings" or certain single-family and multi-family rental properties receiving or benefitting from federal assistance or federally-related financing.

All plaintiffs in eviction actions initiated between March 18, 2020 and August 31, 2020, or on further order of the court, must therefore verify that the property at issue in the eviction action is not a "covered dwelling" under the Cares Act or otherwise subject to federal agency moratoria and programs prohibiting evictions. If a plaintiff fails to submit verification that the property is not a "covered dwelling", the eviction action may be dismissed, as the moratoria prohibit "initiation" of eviction actions.

Pursuant to the Plan's preference for remote court proceedings, every eviction action will first be scheduled for an initial telephonic status conference before being referred to mediation, when appropriate, or being scheduled for a final hearing. Hearings will be scheduled held in person at the courthouse unless otherwise ordered by the court

[1] The Governor issued an Executive Order on April 16, 2020 ("Executive Order 40"), which prohibited the courts from issuing writs of possession in judgment for evictions issued prior to March 18, with certain exceptions. During Phases 1-3, the Plan only allowed certain requests for writs of possession as provided in Executive Order 40.

or agreed upon by the parties and the court during the telephonic conference, or upon the granting of a party's motion to participate remotely at the final hearing.

The following procedures shall apply to eviction actions, effective immediately, until August 31, 2020, or further order of the Court:

1. This Order does not supersede or circumvent the limitation on the issuance of Writs of Possession as set forth by Executive Order 40.

2. Every plaintiff who files an eviction action on or before August 31, 2020 must file a Forcible Entry and Detainer Cares Act or Federal Program Verification form (the "Verification form") along with the complaint certifying under oath that the property involved in the matter is not a "covered dwelling" or otherwise subject to federal or federally-related moratoria on evictions. Plaintiffs must use the Verification form attached to this Order as Appendix A.

3. For all eviction actions filed between March 18, 2020 and this Order's effective date, every plaintiff must supplement the already-filed complaint with a supporting affidavit certifying under oath that the property involved in the matter is not subject to federal or federally-related moratoria on evictions. Plaintiffs must use the Verification form attached to this Order as Appendix A.

4. All eviction actions will be scheduled for initial telephonic status conferences unless otherwise ordered by the trial court.

5. Plaintiffs must file the Verification form, if required, before the initial telephonic status conference. If any plaintiff fails to file the Verification form by the date of that conference, the trial court will dismiss the case, without prejudice.

Dated: July 23, 2020

For the Court:

/s/
Andrew M. Mead
Acting Chief Justice

EXHIBIT A

STATE OF MAINE

DISTRICT COURT
Location_____
Docket No._____

_____
Plaintiff

v.

CARES ACT AND FEDERAL PROGRAMS VERIFICATION FOR FORCIBLE ENTRY AND DETAINER

_____

_____
Defendant(s)

Instructions:

- This Verification form provides the court information related to temporary requirements imposed by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, 15 U.S.C. §§ 9056-9058, and federal agencies and programs on certain eviction actions on any "covered dwelling" or property otherwise subject to federal prohibitions on eviction actions.

- This Verification form must be completed and returned to the clerk along with the complaint in any eviction filed between March 18, 2020 until further order of the Maine Supreme Judicial Court. If plaintiff has already filed a complaint, this Verification form must be returned to the clerk before further court proceedings.

- This Verification form must be notarized.

- Remote notarization is allowed pursuant to Executive Order 37, dated April 8, 2020. Please speak with an attorney if you are unsure how to have a document notarized remotely.

- **Failure to return this Verification form to the court may result in a dismissal of your action.**

If you do not understand how to complete this form, or if you are unsure whether you should use this form, you should speak with an attorney.

I CERTIFY THE FOLLOWING:

1. This eviction is based on a landlord-tenant relationship: ___ YES ___ NO

2. The property involved in this matter is subject to the following federal programs:
(Check each that applies, if any)

A. ___ Section 8 Housing Voucher (42 U.S.C. 1437(f))
B. ___ Section 8 tenant-based and project-based housing (42 U.S.C. 1437(d), 1437(f))
C. ___ Supportive Housing for the Elderly (12 U.S.C. 1701(q))
D. ___ Supportive Housing for Persons with Disabilities (42 U.S.C. 8013)
E. ___ Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. 12901 et seq.)
F. ___ McKinney-Vento Homeless Assistance Act Housing (42 U.S.C. 11360 et seq.)

G. ___ HOME Investment Partnership (42 U.S.C. 12741 et seq.)
H. ___ Below-market Interest Rate Mortgage Insurance (BMIR) (12 U.S.C. 1715l(d)(3))
I. ___ National Housing Act section 236 multifamily rental housing (12 U.S.C. 1715z-1)
J. ___ USDA Rural Development Voucher (42 U.S.C. 1490(r))
K. ___ USDA Rural Rental Housing (Section 515) (42 U.S.C. 1485)
L. ___ USDA Farm Labor Housing (Sections 514/516) (42 U.S.C. 1484/1486)
M. ___ Rural Housing Preservation Grant (HPG) (Section 533) (42 U.S.C. 1490(m))
N. ___ USDA Multifamily Housing Loan Guarantee (Section 538) (42 U.S.C. 1490p-2)

3. The property involved in this matter has a mortgage that is in whole or in part guaranteed, insured, supplemented, or assisted in any way by the following federally connected entities:
(Check each that applies, if any)

A. ___ Federal Housing Administration (FHA)
B. ___ Veterans Administration (VA)
C. ___ United States Department of Agriculture (USDA) direct loan
D. ___ United States Department of Agriculture (USDA) guaranteed loan
E. ___ Federal Home Loan Mortgage Corporation (Freddie Mac)
F. ___ Federal National Mortgage Association (Fannie Mae)
G. ___ an office or agency of the Federal Government
H. ___ a housing or urban development program administered by the Secretary of Housing and Urban Development

4. I received a mortgage forbearance on the property involved in this matter between March 18, 2020 and December 31, 2020:
Complete this section only if you checked a box or boxes in section 3 above.
___ YES ___ NO ___ Not applicable

5. I received a mortgage forbearance on the property involved in this matter between the following dates:
Complete this section only if you checked "YES" in section 4 above.

_____

_____

6. Additional information:
Additional information may also be provided to the court at the time of the hearing.

_____

_____

ATTORNEY HELP
A. ____ No attorney helped me prepare or fill in this form.
B. ____ An attorney helped me prepare or fill in this form.

If you checked B, you must fill in the following information:

_____
Name of attorney or organization providing assistance, if any

_____

Business address of attorney or organization

_____

_____

City State ZIP Code

(_____)_____ _____

Phone number Email address

OATH AND SIGNATURE

I, _____, (print or type name) have read this Verification, and I certify under penalty of perjury and pursuant to the laws of the State of Maine that the information I have provided in this verification is true and correct.

_____ _____, 20_____ _____

Month Day Year Signature

_____

Mailing address

_____ _____

City State ZIP Code

(_____) _____ _____

Phone number Email address

State of Maine
County of _____

Personally appeared the above-named affiant and made oath to the foregoing instrument.

Date: _____

_____

Notary Public/Attorney at Law