District Court of Maryland
Office of the Chief Judge
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December 2, 2020

COMMUNICATION REGARDING DISTRICT COURT RESTRICTED OPERATIONS AND LANDLORD/TENANT ACTIONS DURING PHASE II

Please be advised that in accordance with Administrative Orders issued by Maryland Court of Appeals Chief Judge Mary Ellen Barbera on November 24, 2020, District Court operations are restricted to Phase II operations effective November 30, 2020.

Please reference the following orders:

- *Sixth Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency (the "Operations Order")*
- *Fifth Amended Administrative Order Lifting the Suspension During the COVID-19 Emergency of Foreclosures, Evictions, and Other Ejectments Involving Residences (the "Evictions Order")*

In Phase II, which begins on Monday, November 30, 2020 and runs until January 15, 2021, the District Court will hear only limited actions including criminal cases, other civil proceedings and certain landlord tenant case types.

Criminal actions heard during Phase II include bail reviews, trials for incarcerated individuals, trials for other criminal actions alleging violent actions and trials for DUI/DWIs. In addition, courts may conduct guilty pleas, hearings regarding mental health issues, preliminary hearings, VOP hearings and juvenile waiver hearings. Other than criminal trials, the criminal matters mentioned above may be held in person or remotely. Other criminal matters, to the extent that an individual court has the capacity to hear such matters, also may be heard in person or conducted remotely at the discretion of the Administrative Judge.

Civil actions heard during Phase II include emergency evaluations, quarantine and isolation violation petitions, body attachments, temporary and final domestic violence, peace orders and extreme risk protective orders. These hearings maybe conducted in person or remotely. Other civil matters requiring a hearing or court trial, to the extent that an individual court has the capacity to hear such matters, may be heard in person or conducted remotely at the discretion of the Administrative Judge.

Problem solving courts will continue to operate during Phase II and courts are authorized to conduct any other proceeding remotely, if possible.

Landlord tenant actions heard during Phase II include rent escrow actions if local inspection practices are operational, emergency tenant holding over actions, emergency breach of lease actions, and emergency wrongful detainer actions. Warrants of restitution will be reviewed and processed consistent with the Evictions Order.

Subject to any Executive or Agency Order, failure to pay rent filings will be accepted by the District Court but will not be set for a hearing during Phase II. Any failure to pay rent hearing currently set on or after November 16, 2020 through January 15, 2021 is postponed and will be reset for a hearing when restrictions to court operations are lifted or modified.

The information provided below is offered to explain the business process that will be employed during Phase II by the court while the pandemic is ongoing.

a) All visitors to the District Court must always wear a face mask or covering while inside the courthouse. Screening questions will be asked, a temperature reading will be taken, and physical distancing will be required. If an individual is denied entrance because they have not passed the screening, they will be given instructions as to how to participate remotely or reschedule the case.

b) In order to ensure physical distancing, many courts are employing staggered docket start times and reduced caseloads on each docket. Staggered docket start time means that a hearing may start on the hour, half-hour or in fifteen-minute increments. For example, a court may schedule 10 cases at 9:00 a.m., 10 cases at 10:00 a.m., and 10 cases at 11:00 a.m. Please check your hearing notice carefully and arrive no more than 15 minutes before your case is scheduled.

c) District Court locations may conduct Phase II hearings in person or may conduct the hearings remotely. An individual may request to participate remotely either by video or telephone. Please use the following form if you want to request to participate remotely: https://mdcourts.gov/sites/default/files/court-forms/ccdc110.pdf. In addition, courts may specify that during Phase II dockets will be conducted remotely. Where such dockets are being conducted, the hearing notice will indicate that the hearing is being conducted remotely. After looking at their notice, if an individual is still unclear as to whether they should appear in person or remotely, they should contact the clerk's office.

d) Maryland Governor Larry Hogan's Executive Order on evictions issued April 3, 2020 provides:

> "Until the state of emergency is terminated […] No court shall give any judgment for possession or repossession, or warrant for restitution of possession or repossession of residential, commercial, or industrial real property, if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a Substantial Loss of Income."

This applies to both failure to pay rent actions as well as breach of lease actions. Although failure to pay rent cases will not be heard during Phase II, this defense may be raised during any breach of lease hearing. It will be treated as an affirmative defense until the governor's state of emergency is lifted, or the executive order is amended. In addition, the courts will

continue to accept and rule on motions asserting such a defense in any failure to pay rent case or breach of lease case that was heard prior to November 16, 2020 provided that an eviction had not yet occurred. If a tenant is successful in asserting this defense, the court will determine the merits of the case and/or the amount that is due for possession but will reserve entry of judgment until such time as the judgment is not prohibited by the governor's executive order. Upon termination of the state of emergency and rescission of the health emergency or other applicable action by the governor, the court, without request from any party, will enter each judgment for possession that was reserved by the court. The landlord has a continuing duty to inform the court of any payments made by the tenant while the case is pending or is reserved and must affirm under oath as to the amount then and owing based on the reserved judgment should the landlord file a petition for a warrant of restitution. Each judge will determine the sufficiency of the evidence provided.

The Governor's Order can be found here:
https://governor.maryland.gov/wp-content/uploads/2020/04/Evictions-Repossessions-ForeclosureAMENDED-4.3.20.pdf

e) The Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services issued an Order regarding evictions that became effective on September 4, 2020. In pertinent part, the Order provides that a landlord may not evict any tenant, lessee or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

1. The individual has used best efforts to obtain all available government assistance for rent or housing;
2. The individual either (i) expects to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
3. the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
4. the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
5. eviction would likely render the individual homeless— or force the individual to move into and live in close quarters in a new congregate or shared living setting— because the individual has no other available housing options.

The CDC Order can be found here: https://federalregister.gov/d/2020-19654. A sample affidavit is included.

Although failure to pay rent hearings will not occur during Phase II, this defense may be raised by motion in any failure to pay rent case that was heard prior to November 16, 2020 provided that an eviction had not yet occurred. If a tenant is successful in asserting this defense, the court

will determine the merits of the case and/or the amount that is due for possession but will reserve entry of judgment until such time as the judgment is not prohibited by the CDC agency order. Upon expiration of the CDC agency order, the court, without request from any party, will enter each judgment for possession that was reserved by the court. The landlord has a continuing duty to inform the court of any payments made by the tenant while the case is pending or is reserved and must affirm under oath as to the amount then and owing based on the reserved judgment should the landlord file a petition for a warrant of restitution. Each judge will determine the sufficiency of the evidence provided.

f) If any party is interested in mediation of their case prior to the hearing date, they should contact the District Court Alternative Dispute Resolution Office at RemoteADR@mdcourts.gov, telephone number 410-260-1971, or submit a request via the online form, available at https://mdcourts.gov/district/adr/home. Mediation is currently being conducted remotely.

g) The District Court of Maryland has revised its webpages regarding landlord tenant actions as well as money issues in light of the COVID-19 pandemic. These webpages can be found here:
   - https://www.courts.state.md.us/legalhelp/housing
   - https://www.courts.state.md.us/legalhelp/moneyissues/covid19.

h) A new failure to pay rent complaint form became effective October 1, 2020. The new DC-CV082 form can be found online at https://mdcourts.gov/district/forms or can be requested from the clerk's office. If you are requesting a large quantity of forms, please use: https://mdcourts.gov/sites/default/files/court-forms/district/forms/acct/dca040.pdf/dca040.pdf.

REQUEST TO LANDLORDS:

Landlords are requested to review failure to pay rent complaints that were previously filed to determine if the case is still viable and if a hearing is still needed. If the case is no longer viable, landlords are requested to file a line of dismissal for the action. Landlords can file a single dismissal sheet containing the case numbers of all cases to be dismissed. These can be filed with the court by email/virtual drop box as the local jurisdiction permits

The District Court of Maryland continues to explore and coordinate with other state and local government agencies that are providing COVID-19 relief to tenants and/or landlords. The Maryland Judiciary's Self-Help Centers have compiled a list by county of COVID-19 resources available to both landlords and tenants. For more information, please contact the Maryland Judiciary's Self-Help Centers at 410-260-1392 or https://mdcourts.gov/selfhelp. In addition, both landlords and tenants are encouraged to contact their state and local governments to determine what resources may be available.