PMO-SJC-6

STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER
Order Issued July 21, 2020
(revised July 23, 2020)
(revised November 3, 2020)
(revised December 22, 2020)
(revised February 17, 2021)

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 did not schedule or hear eviction cases beginning March 13.[1] The Plan provided that beginning in Phase 4 (August 3-September 4, 2020), the court would 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"). Before it expired, the CARES Act provided 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. Since the resumption of eviction proceedings in Maine, plaintiffs seeking to recover possession of property through eviction actions may have been subject to the federal moratoria on evictions either imposed through the CARES Act or administered by other federal agencies and programs. Eviction actions subject to federal moratoria include certain single-family and multi-family rental properties receiving or benefitting from federal assistance or federally-related financing.

[1] The Plan allowed certain requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020. The Governor's Executive Order Number 5, dated July 30, 2020, repealed and replaced Executive Order Number 40.

Consistent with the Plan's preference for remote court proceedings, most eviction actions will continue to first be scheduled for an initial telephonic status conference, at which time the case may be referred to mediation, when appropriate, scheduled for a final hearing, or both. Final hearings will be held in person at the courthouse unless otherwise ordered by the court 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.

Beginning in February of 2021, a few courts shall pilot a remote docket call, whereby eviction cases shall be in order for remote mediation, a remote final hearing, or both, on the scheduled day. Final hearings in these pilot project courts are presumed to be conducted remotely unless the court grants a party's motion to participate in person pursuant to PMO-SJC-7(B), or the parties and the court agree during the remote docket call that the final hearing shall be held in person at the courthouse.

PMO-SJC-6(A). REQUIREMENTS FOR ALL EVICTION ACTIONS

The following procedures shall apply to all eviction actions through March 31, 2021, or until further order of the court:

1. Plaintiffs shall no longer need to file a Forcible Entry and Detainer Cares Act or Federal Program Verification form in order to initiate or prosecute a Forcible Entry and Detainer action.

PMO-SJC-6(B). PROCESS FOR INITIAL TELEPHONIC CONFERENCE

The following procedures shall apply to eviction actions scheduled for an initial telephonic conference, through March 31, 2021, or until further order of the court:

1. All eviction actions will be scheduled for initial telephonic status conferences unless scheduled for a remote docket call in a pilot project court or otherwise ordered by the trial court.

2. At the initial telephonic status conference:

a. If the plaintiff fails to appear, the eviction action shall be dismissed without prejudice.

b. If the defendant fails to appear, the eviction action shall be scheduled for a final hearing.

c. If both parties fail to appear, the eviction action shall be dismissed without prejudice.

3. At the final hearing:

a. If the defendant failed to appear at the initial telephonic status conference pursuant to PMO-SJC-6(B)(2)(b), the defendant shall be afforded the opportunity to show good cause for failure to appear at the telephonic status conference.

i. If the defendant shows good cause, the final hearing shall proceed with opportunity for both parties to present all claims and defenses.

ii. If the defendant fails to show good cause, judgment may be entered in favor of the plaintiff by default, provided the plaintiff shows that the eviction is not prohibited by federal moratoria on evictions.

b. If the defendant fails to appear, judgment may be entered in favor of the plaintiff by default, provided the plaintiff shows that the eviction is not prohibited by federal moratoria on evictions.

c. If the plaintiff fails to appear, the eviction action shall be dismissed with prejudice.

d. If both parties fail to appear, the eviction action shall result in a dismissal without prejudice.

PMO-SJC-6(C). PROCESS FOR PILOT PROJECT REMOTE DOCKET CALL

The following pilot project procedures shall apply to eviction actions scheduled for a remote docket call, through March 31, 2021, or until further order of the court:

1. The following courts are designated as the first to pilot the remote docket call project:

    a. York District Court

    b. Ellsworth District Court

    c. Farmington District Court

2. Eviction actions in pilot project courts shall be scheduled for a remote docket call unless otherwise ordered by the court.

    a. Parties shall receive notice from the pilot project court of the remote docket call with information and instructions to access the courtroom remotely.

    b. Parties may request an alternative format for court proceedings prior to the remote docket call pursuant to PMO-SJC-7(B).

3. At the remote docket call, eviction actions may be referred in real time to remote mediation, be scheduled for a remote final hearing, or both. The remote final hearing may take place the same day as the remote docket call as the court's schedule allows.

    a. Pursuant to PMO-SJC-7(A), final hearings shall be presumed to be conducted remotely and shall comply with other provisions of PMO-SJC-7.

    b. Parties may request an alternative format for the final hearing pursuant to PMO-SJC-7(B).

    c. Parties may enter evidence onto the record during the final hearing pursuant to PMO-SJC-7(C).

4. In pilot project courts at the remote docket call on the scheduled date:

   a. If the defendant fails to appear, judgment may be entered in favor of the plaintiff by default, provided the eviction is not prohibited by federal moratoria on evictions.

   b. If the plaintiff fails to appear, the eviction action shall be dismissed with prejudice.

   c. If both parties fail to appear, the eviction action shall result in a dismissal without prejudice.

Dated: February 17, 2021

For the Court:

/s/
Andrew M. Mead
Acting Chief Justice