IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9134

TWENTY-EIGHTH 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. The Twenty-Seventh Emergency Order (Misc. Dkt. No. 20-9113) is renewed as amended.

3. In consultation with Governor Abbott, who has directed federal funding from the CARES Act, Community Development Block Grant, and Emergency Solutions Grant to rental assistance and eviction diversion, and the Texas Department of Housing and Community Affairs, and in an effort to curb the possible surge of evictions due to the COVID-19 pandemic, assist Texas's most vulnerable tenants, and provide landlords with an alternative to eviction, the Court establishes the Texas Eviction Diversion Program and adopts the procedures set forth in this Order.

4. Eligibility for rental assistance under the Texas Eviction Diversion Program will be determined by the Texas Department of Housing and Community Affairs and its providers.

5. 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 based, in whole or part, on the nonpayment of rent:

   a. in addition to the contents required by Texas Rules of Civil Procedure 502.2 and 510.3, a sworn original, amended, or supplemental petition must state that the plaintiff has reviewed the information about the Texas Eviction Diversion Program available at www.txcourts.gov/eviction-diversion/;

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

      i. the following statement: "You may be able to stop your eviction if you and your landlord agree to participate in the Texas Eviction Diversion Program. At your trial, the court will tell you about the Program and ask if you are interested in

participating. Find out more about the Program in the attached brochure, titled State of Texas Eviction Diversion Program, and at www.txcourts.gov/eviction-diversion/."; and

ii. a copy of the informational brochure, titled State of Texas Eviction Diversion Program, prepared by the Texas Department of Housing and Community Affairs;

c. at the trial required by Texas Rules of Civil Procedure 510.6 and 510.7, the judge must:

i. discuss the Texas Eviction Diversion Program with the plaintiff and defendant;

ii. ask the plaintiff and defendant whether they are interested in participating in the Texas Eviction Diversion Program; and

iii. if the plaintiff and defendant both express an interest in participating in the Texas Eviction Diversion Program:

(A) abate the eviction action for 60 days;

(B) make all court records, files, and information—including information stored by electronic means—relating to the eviction action confidential to prohibit disclosure to the public; and

(C) inform the parties of the reinstatement and dismissal procedures outlined in Paragraphs 6 and 7 of this Order.

6. To reinstate an eviction action abated under Paragraph 5(c)(iii), the plaintiff must file a motion to reinstate with the court within the 60-day abatement period and serve a copy of the motion on the defendant. Upon the filing and service of the motion, the judge must sign and serve—in a method provided by Texas Rule of Civil Procedure 510.4—a written order that:

a. reinstates the eviction action;

b. sets the eviction action for trial as soon as practicable, but no later than 21 days after the date the order is signed;

c. states the procedures for the action to proceed; and

d. makes all court records, files, and information—including information stored by electronic means—relating to the eviction action non-confidential to allow disclosure to the public.

7. If the plaintiff does not file and serve a motion to reinstate an action abated under Paragraph 5(c)(iii) within the 60-day abatement period, the judge must dismiss the action, including any claims that do not involve the nonpayment of rent, with prejudice. All court records, files, and information—including information stored by electronic means—relating to the dismissed eviction action must remain confidential.

8. Paragraph 7 does not prohibit the plaintiff from filing an action for eviction based on future events or acts that are an independent basis for eviction.

9. This Order is effective as of October 12, 2020, for pilot counties prescribed by the Office of Court Administration on or before October 12, 2020. For pilot counties prescribed by the Office of Court Administration after October 12, 2020, this Order is effective on the date prescribed by the Office of Court Administration. This Order is effective as of January 1, 2021, for all other counties. This Order expires February 1, 2021, unless extended by the Chief Justice of the Supreme Court.

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

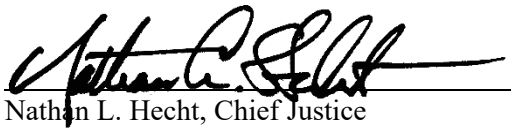
a. post a copy of this Order on www.txcourts.gov;

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.

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

Dated: November 9, 2020.



Nathan L. Hecht, Chief Justice