Order

Michigan Supreme Court
Lansing, Michigan

January 30, 2021

Bridget M. McCormack,
Chief Justice

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

ADM File No. 2020-08

Amendment of Administrative Order No. 2020-17

Priority Treatment and New Procedure for Landlord/Tenant Cases

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Administrative Order No. 2020-17 – Priority Treatment and New Procedure for Landlord/Tenant Cases

Since the early days of the pandemic, state and national authorities have imposed restrictions on the filing of many landlord/tenant cases. As those restrictions are lifted and courts return to full capacity and reopen facilities to the public, many will experience a large influx of landlord/tenant case filings. Traditionally, the way most courts processed these types of cases relied heavily on many cases being called at the same time in the same place, resulting in large congregations of individuals in enclosed spaces. That procedure is inconsistent with the restrictions that will be in place in many courts over the coming weeks and months as a way to limit the possibility of transmission of COVID-19. In addition, courts are required to comply with a phased expansion of operations as provided under Administrative Order No. 2020-14, which may also impose limits on the number of individuals that may congregate in public court spaces.

Therefore, the Court adopts this administrative order under 1963 Const, Art VI, Sec 4, which provides for the Supreme Court's general superintending control over all state courts, directing courts to process landlord/tenant cases using a prioritization approach. This approach will help limit the possibility of further infection while ensuring that landlord/tenant cases are able to be filed and adjudicated efficiently. All courts having jurisdiction over landlord/tenant cases must follow policy guidelines established by the State Court Administrative Office. Courts should be mindful of the limitations imposed by federal law (under the CARES Act) as these cases are filed and processed, and follow the guidance in Administrative Order No. 2020-8 in determining the appropriate timing for beginning to consider these cases.

For courts that are able to begin conducting proceedings, the following provisions apply to landlord/tenant actions.

(1)-(10) [Unchanged.]

(11) A court shall discontinue prioritization of cases when it has proceeded through all priority phases and no longer has any landlord/tenant filings that allege a breach of contract for the time period between March 20, 2020, and July 15, 2020 (the period in which there was a statewide moratorium on evictions). At that point, the court may notify the regional administrator of its completion of the prioritization process and will not be required to return to the procedure even if a subsequent case is filed that alleges rent owing during the period of the eviction moratorium. A court must continue compliance with all other aspects of this order while the Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19–issued by the Centers for Disease Control and Prevention~~;~~ and published at 85 FR 55292, and extended by order dated January 29, 2021~~; and extended under the Consolidated Appropriations Act, 2021 (HR 133), Division N, §502~~ is in effect.

(12)-(13) [Unchanged.]

This order is effective until further order of the Court.

VIVIANO, J. (*dissenting*). I dissent from the Court's decision to extend its previous order administratively suspending the operation of certain laws governing summary landlord-tenant proceedings. When the Court first suspended these laws in October 2020, I dissented because the order was premised solely on an order from the Centers for Disease Control and Prevention (CDC) that relied on dubious legal authority. Administrative Order No. 2020-17, 506 Mich ___ (October 22, 2020) (VIVIANO, J., dissenting), citing CDC, *Temporary Halt in Residential Evictions*, 85 Fed Reg 55,292 (September 4, 2020). Legislation was subsequently enacted by Congress that specifically referenced and extended the CDC order through January 31, 2021. Consolidated Appropriations Act, 2021 (HR 133), Division N, § 502. When the Court extended this order in December 2020, I concurred because the order then "rest[ed] on a statute duly enacted by Congress and signed by the President . . . ." Amendment of Administrative Order No. 2020-17, 506 Mich ___ (December 29, 2020) (VIVIANO, J., concurring). On January 29, 2021, the CDC issued an order extending its eviction moratorium through March 31, 2021. CDC, *Temporary Halt in Residential Evictions*, 86 Fed Reg 8020 (February 3, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-01292021.pdf>. Congress, however, has not authorized such an extension. Because our order once again rests solely on the CDC order, I dissent for the reasons stated in my initial dissent.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 30, 2021

Clerk