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Sixth Judicial Circuit
Champaign County

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Courtroom “D”
February 1, 2021
EVICTIONS
COVID-19 Precautionary Measures
Amended Interim Protocol on Eviction Procedure

- I. We are now entering the 11th month of strict limitations on the filing of eviction cases and enforcement of eviction orders, and the rules have changed substantially from when this Court entered its earlier Eviction Protocol on June 9, 2020:
- A. On November 13, 2020, Governor Pritzker changed the prohibition on commencing an eviction proceeding with Executive Order [2020-72](#), since amended by Executive Orders [2020-74](#) and [2021-1](#), which currently has been extended through February 6, 2021. The Executive Orders now prohibit commencing a residential eviction action against a “Covered Person” (defined as a residential tenant or resident who provides to the landlord a written Declaration under penalty of perjury meeting certain requirements), “unless that person poses a direct threat to the health and safety of other tenants or an immediate and severe risk to property.” The Executive Orders also prohibit law enforcement officers from enforcing residential eviction court orders, whether or not the tenant or resident is a “Covered Person”, unless the person “has been found to pose a direct threat to the health and safety of other tenants or an immediate and severe risk to property.”
- B. On March 27, 2020, the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act), 15 U.S.C. § 9058 ([P.L. 116-136](#)) became law and, while the Act’s moratorium on eviction filings expired on August 24, 2020, its requirement of a 30-day notice to vacate the premises still applies to any “covered dwelling”:
- NOTICE. –The lessor of a covered dwelling unit—
- (1) may not require “the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and
- (2) may not issue a notice to vacate under paragraph (1) until after [August 24, 2020].
- 15 U.S.C. § 9058(c).
- C. The Illinois Supreme Court’s [Administrative Order](#) of May 22, 2020, amending M.R. 30370 to ensure compliance with the CARES Act, expired on

August 24, 2020, in all respects except its requirement that “If an eviction action is improperly brought involving a ‘covered dwelling’ . . . and the eviction complaint alleges that the basis for termination is nonpayment of rent, the complaint shall be dismissed and the judge shall order the record sealed.”

[Ill.S.Ct. M.R. 30370 \(5/22/20\)](#), ¶ E.

D. The Illinois Supreme Court has modified eviction filing requirements and procedures in other ways since this Court’s earlier Protocol:

- i. Beginning July 17, 2020, all eviction complaints must have the following attached:
 1. A copy of the eviction notice or demand given to the defendant including any affidavit or proof of service, or an affidavit (using the [Approved Form](#)) explaining why it is not attached; and
 2. A copy of the lease or relevant portions of the lease, or an affidavit (using the [Approved Form](#)) explaining why it is not attached.

[Ill.S.Ct. Rule 139 \(M.R. 3140 \(7/17/20\)\)](#).

- ii. Beginning December 22, 2020, anyone filing a residential eviction complaint must also file a completed and sworn Plaintiff’s Certification of Compliance with the Governor’s Executive Order on Evictions. [Ill.S.Ct. M.R. 30370 \(12/22/20\)](#), ¶ 1, Appendix A (attaching required form). The Order provides that:
 1. The court must review all eviction complaints to determine if a proper Plaintiff’s Certification form has been filed and, if it has not, the court “shall issue an order dismissing the action, without prejudice, sealing the record, and providing that summons on the case may not be issued” or, “[i]f summons has already been issued or placed for service, the order must direct the plaintiff/landlord to take reasonable steps to recall the summons from the process server.” *Id.*, ¶ 3. Any action so dismissed “may be re-filed under a new case number when no longer barred by the Executive Order, with any filing fee for the refiled action being waived.” *Id.*, ¶ 6.
 2. “If the reviewing judge determines that the required certification form, on its face, properly meets the requirements of [] Executive Order [2020-72 as amended], **the matter may proceed to be heard.**” *Id.*, ¶ 4 (emphasis added).

- II. Limiting in-person court appearances still is essential, but circumstances have changed in ways that allow the limited number of evictions that may be filed to “proceed to be heard.”
- III. Trials require the attendance of parties and an unknown number of testifying witnesses, but the current orders and the pre-hearing court review they require substantially limit the number of eviction cases that could proceed to trial. The

Court's experience with those limitations so far indicates that they generate a volume that can be managed while observing the distancing requirements and sanitization procedures in effect at the Champaign County Courthouse.

- IV. The length of time Illinois residents have experienced the suspension of eviction enforcement, and the clear language of the Governor's current orders and the Supreme Court's most recent order regarding evictions, make plain to everyone that non-emergency eviction cases "may proceed to be heard" if the orders' requirements are met. There is no longer sufficient reason to worry that eviction defendants may fail to appear in court because of confusion over whether their appearance is required.
- V. Meanwhile, the Court's earlier Eviction Protocol has resulted in an increasing backlog of non-emergency evictions waiting for trial and default eviction orders awaiting entry. If that earlier Protocol continued, this increasing backlog would be added to the building volume of non-emergency eviction cases waiting to be filed as soon as the strict filing requirements end. There is no longer sufficient reason to add cases that the Court could be hearing now to that backlog.
- VI. In order to comply with the requirements of the orders above, to protect health and safety while still providing for the orderly operation of the Court's essential functions, and to further the efficient and effective administration of eviction orders and court time in Champaign County, the Court has established the following:

EVICTIION PROTOCOL (2/1/21)

- A. **As of December 22, 2020, Residential Eviction Complaints Must Include:**
1. **A Certification of Compliance with the Governor's Executive Order on Evictions**, using the attached form, which also is available at <https://courts.illinois.gov/SupremeCourt/Announce/2020/122220-1.pdf>; **and**
 2. **One of the following:**
 - i. **A Copy of the eviction Notice or Demand**, including any affidavits or other proof of service; or
 - ii. **An Affidavit explaining why it is not attached**, using the attached form, which also is available at https://courts.illinois.gov/Forms/approved/eviction/EVC_AffidavitSupportingDocumentsNotAttachedtoEvictionComplaint.pdf; **and**
 3. **If the eviction is based on a written lease, one of the following:**
 - i. **A copy of the Lease or relevant portions**; or
 - ii. **An Affidavit explaining why it is not attached**, using the attached form, which also is available at https://courts.illinois.gov/Forms/approved/eviction/EVC_AffidavitSupportingDocumentsNotAttachedtoEvictionComplaint.pdf; **and**
 4. **If the eviction is claimed to be an emergency under the Governor's Executive Orders, an Emergency Exception Affidavit** or other sworn statement verifying the facts that support the claim that an emergency exception applies.
- B. **First Appearances While Governor's Orders Suspend Enforcement**
1. **Defendant appears and agrees to Eviction Order:** If the filing requirements are met, the Court will enter an Eviction Order, but unless it falls under one of the Emergency Exceptions to the Governor's orders, the Court will modify the Order's title to add "Non-Emergency" and will modify the line ordering Sheriff's enforcement to add "only upon lifting of Governor's orders suspending enforcement".
 2. **Defendant appears and objects to Eviction Order:** A trial will be set that same week or, if good cause is shown or the parties agree, a later trial date. If Plaintiff succeeds at trial but did not claim and prove an emergency exception, however, the Court will modify the Order's title to add "Non-Emergency" and will modify the line ordering Sheriff's enforcement to add "only upon lifting of Governor's orders suspending enforcement".
 3. **Defendant does not appear after proper service of sufficient Complaint:** The Court will enter a Default Eviction Order. If Plaintiff did not claim an emergency exception properly supported by affidavit, however, the Court will modify the Order's title to add "Non-Emergency by Default" and will modify the line ordering Sheriff's enforcement to add "only upon lifting of Governor's orders suspending enforcement".

- C. **Affidavit is filed triggering entry of Eviction Order without notice pursuant to parties' earlier Stipulation:** The Court will enter an Eviction Order. If Plaintiff did not claim an emergency exception properly supported by affidavit, however, the Court will modify the Order's title to add "Non-Emergency" and will modify the line ordering Sheriff's enforcement to add "only upon lifting of Governor's orders suspending enforcement".
- D. **Non-Emergency Default Orders still under advisement from the Court's earlier Eviction Protocol:** The Court's clerk will contact Plaintiff's counsel (or Plaintiff, if self-represented) to ask if Plaintiff still requests the order.
1. If so, the Order will be entered except the Court will modify the Order's title to add "Non-Emergency by Default" and will modify the line ordering Sheriff's enforcement to add "only upon lifting of Governor's orders suspending enforcement".
 2. If not, the Court will dismiss the case without prejudice or continue it generally, at the Plaintiff's request.
- E. **Please monitor the status of your case and review what has and has not been filed at:** <https://www.champaigncircuitclerk.org/>

DATE: February 1, 2021

/s/ Brett N. Olmstead
Brett N. Olmstead, Associate Judge

APPENDIX A

IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
FOR _____ COUNTY, ILLINOIS

_____)	
Plaintiff(s))	
)	
v.)	Case No.
)	
_____)	
Defendant(s))	

Plaintiff's Certification of Compliance with the Governor's Executive Order on Evictions

I, [name], hereby state as follows: (check all applicable box(es))

1. I am: ☐ The named plaintiff; or ☐ An Agent of the named plaintiff.
2. The filing of this eviction case does not violate the Governor's Executive Order 2020-72, as amended by Executive Order 2020-74 and any subsequent executive order extending or reissuing Executive Order 2020-72 (together, the "Executive Order"), because:

a. One or more of the following applies:

- ☐ The defendant(s) poses a direct threat to the health and safety of other tenants;
- ☐ The defendant(s) poses an immediate and severe risk to property; and/or
- ☐ The property at issue is non-residential;

OR

b. Prior to commencing the action:

- ☐ I served each defendant with a form declaration made available by the Illinois Housing Development Authority (or a similar declaration under penalty of perjury) on [date]; and
- ☐ I did not receive a qualifying declaration from any of the defendant(s) that they qualify as a "Covered Person" under the Executive Order before filing this action.

I certify that everything in this certification is true and correct. I understand that making a false statement is perjury and has penalties provided by law under 735 ILCS 5/1-109.

Sworn:

Date

Plaintiff (or Agent) (spell name)

Plaintiff (or Agent) (signature)

STATE OF ILLINOIS, CIRCUIT COURT COUNTY _____	AFFIDAVIT - SUPPORTING DOCUMENTS NOT ATTACHED TO EVICTON COMPLAINT	<i>For Court Use Only</i>
Instructions ▼		
Directly above, enter the name of the county where you will file the case.	Plaintiff (For example, the landlord or owner): _____ _____	
Enter your name as Plaintiff.		
Below "Defendants," enter the names of the people you are trying to evict.	v. Defendants (First, middle, last name): _____ _____	
The sheriff will only evict unknown occupants if the "Unknown Occupants" box is checked.	<input type="checkbox"/> Unknown Occupants (Check this box only if you checked Unknown Occupants on the Eviction Complaint and Eviction Summons.)	
Enter the case number given by the Circuit Clerk.		_____ Case Number

NOTE: You only need to fill out and attach this *Affidavit* to the Eviction Complaint if you do not attach the Notice, Demand, affidavit or proof of service of a Notice or Demand, or Lease.

In 1, check the box that states why you did not attach a Notice or Demand.	Check all that apply: <input type="checkbox"/> 1. I did not attach a Notice or Demand to the Eviction Complaint because: <input type="checkbox"/> I cannot find or did not save my copy. <input type="checkbox"/> A Notice or Demand is not required in this case. <input type="checkbox"/> Other reason: _____ <input type="checkbox"/> 2. I did not attach a copy of an affidavit or proof of service of a Demand or Notice because: <input type="checkbox"/> I cannot find or did not save my copy. <input type="checkbox"/> A Notice or Demand is not required in this case. <input type="checkbox"/> Other reason: _____ <input type="checkbox"/> 3. I did not attach a copy of a written lease to the Eviction Complaint because: <input type="checkbox"/> I am not required to attach a written lease. <input type="checkbox"/> I did not have a written lease with Defendants. <input type="checkbox"/> I cannot find or did not save a copy of the written lease. <input type="checkbox"/> Other reason: _____	
In 2, check the box that states why you did not attach the affidavit or proof of service of a Notice or Demand.		
In 3, check the box that states why you did not attach a written lease.		
If you need more information, read <i>How to File & Present an Eviction Complaint</i> .		
Under the Code of Civil Procedure, 735 ILCS 5/1-109 , making a statement on this form that you know to be false is perjury, a Class 3 Felony.		
If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.	I certify that everything in this <i>Affidavit</i> is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.	
Enter your complete address, telephone number, and email address, if you have one.	/s/ _____ <i>Your Signature</i>	_____ <i>Street Address, Unit #</i>
	_____ <i>Print Your Name</i>	_____ <i>City, State, ZIP</i>
	_____ <i>Telephone</i>	_____ <i>Email</i>

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.