

Brett N. Olmstead

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Sixth Judicial Circuit
Champaign County

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Courtroom “D”
June 9, 2020
EVICCTIONS
COVID-19 Precautionary Measures
Supplemental Interim Protocol on Eviction Procedure

- I. Evictions may now proceed on a limited basis. Specifically:
- A. Governor Pritzker’s Executive Orders [2020-30](#) and [2020-33](#), the first of which was entered on April 23, 2020, and which [2020-39](#) extended through June 27, 2020, generally prohibit the commencement of an eviction “unless a tenant poses a direct threat to the health and safety of other tenants, an immediate and severe risk to property, or a violation of any applicable building code, health ordinance, or similar regulation” (hereinafter the “Emergency Exceptions”), and prohibit the enforcement of a residential or nonresidential eviction order unless a finding is made that it falls within the Emergency Exceptions.
 - B. On March 27, 2020, the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) ([P.L. 116-136](#)) became law, section 4024(b) of which prohibits the following from March 27, 2020, to July 25, 2020:
 - i. Filing an eviction action “to recover possession of [a] covered dwelling from the tenant for nonpayment of rent or other fees or charges”;
 - ii. Charging “fees, penalties, or other charges to the tenant related to such nonpayment of rent”;
 - iii. Issuing “a notice to vacate” a “covered dwelling”; and
 - iv. Requiring “the tenant to vacate [a] 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” (effectively extending the prohibition against filing an eviction action “to recover possession of [a] covered dwelling from the tenant for nonpayment of rent or other fees or charges” to August 24, 2020).
 - C. On May 22, 2020, the Illinois Supreme Court issued an [Administrative Order](#) amending M.R. 30370 to provide for efficient court administration given the requirements of the CARES Act. This Order applies to “any eviction action involving a residential premises brought pursuant to the Eviction Act”, and requires, for evictions filed from May 22, 2020, until August 24, 2020, that the plaintiff must “affirmatively state in the complaint or in a supporting

affidavit whether the dwelling unit of which the plaintiff seeks possession is a ‘covered dwelling’ within the meaning of . . . the CARES Act’; and for evictions filed after March 27, 2020, but before May 22, 2020, that the plaintiff “must amend the complaint or supplement it with a supporting affidavit stating whether the dwelling unit of which the plaintiff seeks possession is a ‘covered dwelling’ within the meaning of . . . the CARES Act.” The Administrative Order included an attached model Certification Form that meets the Order’s “supporting affidavit” requirement.

- II. Limiting in-person court appearances still is essential.
 - A. On May 29, 2020, the Governor reissued his [Disaster Proclamation](#), which will last through June 27, 2020, and, while [Executive Order 2020-38](#) eased some earlier restrictions pursuant to the Governor’s reopening plan, still it advised that “Because in-person contact presents the greatest risk of transmission of COVID-19, Illinoisans are encouraged to continue limiting in-person contact with others”.
 - B. On May 20, 2020, the Illinois Supreme Court promulgated [Guidelines for Resuming Illinois Judicial Branch Operations during the COVID-9 Pandemic](#), noting that “Most individuals do not come to court by choice” and admonishing courts to limit in-person appearances.
 - C. On May 26, 2020, Chief Judge Karle Koritz entered [Sixth Circuit Administrative Order 2020-07](#), effective June 1, 2020, requiring among other measures that the Court “make all reasonable efforts to reduce the number of people present in the courtroom, lobbies, law libraries, and waiting areas at any given time” and “to the extent possible, reduce the number of cases scheduled for each court call.”
- III. Trials require the attendance not only of parties, but also of an unknown number of testifying witnesses. Holding trials in eviction cases where a successful plaintiff can only obtain an unenforceable order is inconsistent with the goal of minimizing in-person court appearances and is not an efficient or effective use of Court time, especially considering the quick basis on which eviction trials are accommodated in Champaign County.
- IV. There is a considerable amount of confusion in the community regarding the status of evictions in light of the Governor’s orders, which are unprecedented measures in an unprecedented time, and it currently is not reasonable to equate a defendant’s failure to appear in response to an eviction summons with an agreement that an unenforceable eviction order may be entered immediately.
- V. 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:

EVICTION PROTOCOL

A. Filing Eviction Complaints

- i. **Evictions filed before March 27, 2020:** There is no additional requirement for a filed Complaint to remain pending.
- ii. **Evictions filed on or after March 27, 2020, but before April 23, 2020: CARES Act Affidavit** is required. Plaintiff must amend the Complaint or supplement it with a Supporting Affidavit pursuant to the Illinois Supreme Court’s Administrative Order stating whether the dwelling unit of which the plaintiff seeks possession is a “covered dwelling” within the meaning of the CARES Act.
- iii. **Evictions filed on or after April 23, 2020:** Plaintiff must file both:
 1. **CARES Act Affidavit:** A Supporting Affidavit pursuant to the Illinois Supreme Court’s Administrative Order stating whether the dwelling unit of which the plaintiff seeks possession is a “covered dwelling” within the meaning of the CARES Act; and
 2. **Emergency Exception Affidavit:** An affidavit stating that the action falls within one of the Emergency Exceptions to the Governor’s orders.

B. First Appearances While Governor’s Orders Suspend Enforcement

- i. **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 by Defendant’s Agreement” and will modify the line ordering Sheriff’s enforcement to add “only upon lifting of Governor’s orders suspending enforcement”.
- ii. **Defendant appears and objects to eviction order:**
 1. **Plaintiff does not claim Emergency Exception:** The Court will continue the First Appearance hearing to a date after the Governor’s orders suspending eviction enforcement expire.
 2. **Plaintiff claims Emergency Exception:** See “Trials While Governor’s Orders Suspend Eviction Enforcement” below.
- iii. **Defendant does not appear after proper service of sufficient Complaint:**
 1. **Plaintiff does not claim Emergency Exception:** The Court will note that defendant is in default and will take the motion for default judgment under advisement until the Governor’s orders suspending eviction enforcement expire.

2. **Plaintiff claims Emergency Exception with supporting affidavit:** The Court will enter an Eviction Order for immediate enforcement.
3. **Plaintiff claims Emergency Exception without supporting affidavit:** The Court will take the motion for entry of default judgment under advisement pending the filing of a supporting Emergency Exception Affidavit.

C. **Affidavit Is Filed Triggering Entry of Eviction Order without Notice Pursuant to Parties' Earlier Stipulation:** The Court will take the affidavit under advisement until the Governor's orders suspending eviction enforcement expire.

D. **Trials While Governor's Orders Suspend Eviction Enforcement**

- i. **Evictions filed before March 27, 2020:** No trial will be scheduled unless plaintiff has filed an **Emergency Exception Affidavit** stating that the action falls within one of the Emergency Exceptions to the Governor's orders.
- ii. **Evictions filed on or after March 27, 2020:** No trial will be scheduled unless Plaintiff has filed both:
 1. **CARES Act Affidavit:** A Supporting Affidavit pursuant to the Illinois Supreme Court's Administrative Order stating whether the dwelling unit of which the plaintiff seeks possession is a "covered dwelling" within the meaning of the CARES Act; and
 2. **Emergency Exception Affidavit:** An affidavit stating that the action falls within one of the Emergency Exceptions to the Governor's orders.

E. **Monetary Relief Requests May Proceed Unless Eviction Unresolved:** Requests for monetary relief within eviction actions may proceed as usual with consent and default judgments, but no trial will be scheduled on monetary relief alone if a request for eviction is unresolved.

VI. **Please monitor the status of your case and review what has and has not been filed at:** <https://www.champaigncircuitclerk.org/public-court-records/>

DATE: June 9, 2020

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