

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

FILED
MAY 22 2020

Administrative Order #2020-20

KIMBERLY K JOHNSON
Clerk of the Circuit Court Platte County, MO

In Re: Suspension of Issuance and Enforcement of Writs of Replevin, Writs of Attachment and similar Writs of Execution Due to COVID-19 Virus (Novel Coronavirus) Pandemic

This Administrative Order supersedes this Court's Prior Administrative Order #2020-15 entered April 20, 2020

WHEREAS, the Centers for Disease Control and Prevention have declared that the outbreak of the COVID-19 virus (also known as the novel coronavirus) is a worldwide pandemic;

WHEREAS, both the President of the United States and the Governor of the State of Missouri have declared states of emergency related to this pandemic;

WHEREAS, on April 27, 2020, Governor Parson issued the Show Me Strong Recovery Order, wherein Governor Parson announced that Missouri would enter an initial recovery phase beginning May 4, 2020, continuing through May 31, 2020, allowing the reopening of all businesses that comply with recommended safety precautions;

WHEREAS, on April 27, 2020, in furtherance of Governor Parson's Show Me Strong recovery Order, the Missouri Department of Health and Senior Services issued its Economic Reopening Health Order, effective May 4, 2020, through May 31, 2020;

WHEREAS, the Platte County Health Department entered its Amended Platte County Health Department Order for Ongoing Response, Reopening, and Recovery in Platte County, Missouri(Phase 2, Step 1) on May 1, 2020 which was effective May 4,

WHEREAS, on April 17, 2020, the Supreme Court of Missouri issued its Order superseding its previously issued Orders dated March 16, March 22, and April 1, 2020, extending the suspension (with certain exceptions) all in-person court proceedings in appellate and circuit courts through Friday, May 15, 2020;

WHEREAS, on May 4, 2020, the Missouri Supreme Court issued its Order, effective May 16, 2020, providing Operational Directives for the gradual resumption of those court activities currently under suspension, utilizing a phased in approach;

WHEREAS, pursuant to said Order, the Presiding Judge of each Judicial Circuit is empowered, within certain Gateway Criteria mandated by the Missouri Supreme Court, to determine if and when that Judge's Circuit shall advance from one phase to the next;

WHEREAS, the COVID-19 virus is highly contagious, spreading rapidly between people in close contact with one another through respiratory droplets produced when an infected

person coughs or sneezes, or potentially when a person touches a contaminated surface and then touches their mouth, nose or eyes;

WHEREAS, there is currently no approved vaccine for the COVID-19 virus;

WHEREAS certain members of our community are especially vulnerable to serious health consequences, including hospitalization and death, as a result of infection by the COVID-19 virus, including those over the age of 65, pregnant women, and those with chronic medical conditions such as heart disease, lung disease, or diabetes;

WHEREAS, it is imperative to take all necessary steps to protect the health and safety of all employees of the 6th Judicial Circuit, all judicial officers, and all attorneys and parties who have court hearings or other business in the 6th Judicial Circuit, while also balancing the rights of all said individuals and parties to pursue or to defend themselves against litigation;

WHEREAS, the Presiding Judge of the 6th Judicial Circuit has authority over all cases, trials, and dockets of this Circuit, including the issuance and execution of various Writs associated with those cases;

WHEREAS, pursuant to section 478.240.2 RSMo and section 15 of the Missouri Constitution, the Presiding Judge of each Judicial Circuit has general administrative authority over all judicial personnel and court officials within that Presiding Judge's Judicial Circuit;

WHEREAS, execution of Writs of Replevin, Writs of Attachment, Writs of Garnishment, and similar Writs necessarily require close contact with members of the general public; and

WHEREAS, recent directives from the federal, state and local governments have determined that it is not in the interests of public health to displace persons from their residences at this time during this COVID-19 emergency, including the federal government's authorization of a moratorium on foreclosure and eviction actions for homeowners with mortgages backed by FHA, Fannie Mae, and Freddie Mac to allow them to face the hardships caused by the coronavirus without fear of losing their homes;

WHEREAS, the Coronavirus Aid, Relief and Economics Security Act ("CARES Act") was enacted as part of the laws of the United States; and

WHEREAS, the CARES Act placed a temporary moratorium on certain legal actions to recover possession of specifically described covered dwellings for the nonpayment of rent for the 120 day period ending on July 25, 2020; and

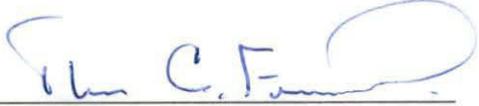
WHEREAS, it is necessary to determine if a dwelling is subject to the temporary moratorium established by the CARES Act;

IT IS HEREBY ORDERED, effective as of the date of this order and continuing through June 15, 2020, unless modified or extended in a subsequent Administrative Order, as follows:

1. The Platte County Circuit Clerk is directed to delay issuing Writs of Replevin, Writs of Attachment, Writs of Garnishment, and any other similar writs of execution up through and including June 15, 2020;
2. The Platte County Circuit Clerk is directed, however, to continue accepting all filings in all cases, pending and new, civil and criminal;
3. The Platte County Circuit Clerk is further directed that summons shall still issue in all cases, pending and new, civil and criminal, for court dates on or after June 15, 2020;
4. The Platte County Sheriff's Department is directed to refrain from executing any pending Writs of Replevin, Writs of Attachment, Writs of Garnishment, and any other similar writs of execution up through and including June 15, 2020; and
5. Unless the gradual re-opening of society, businesses and communities pursuant to the current "re-opening" plans results in a significant elevation of COVID-19 infections, regression in the return to normal operations or other significant changes in circumstances that would warrant an extension of this stay of issuance of Writs, service and execution of said Writs may commence after the date set forth hereinabove, *provided however* that the verification referenced in paragraphs 6 and 7 below has been filed with the Court.
6. Beginning on the date of this Administrative Order and continuing until Saturday, July 25, 2020, before any existing, pending, previously filed or newly filed Writ of Execution seeking to recover possession of covered dwellings for the nonpayment of rent may be issued and/or served, a verification of compliance with the CARES Act shall be completed and filed with the Court in the case file. No Writ of Execution to recover possession of covered dwellings for the nonpayment of rent will be served and/or executed unless and until a completed verification of compliance is filed.
7. The verification of compliance form is attached hereto and shall be available online at the 6th Judicial Circuit Court website, with blank copies being available in the Platte County Circuit Clerk's Office and/or in the court division to which any said legal action is assigned as well.

SO ORDERED

5/22/20
Date


Thomas C. Fincham, Presiding Judge

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

Plaintiff

Case Number: _____

Division _____

Defendant

Attorney name & bar # _____

VERIFICATION OF COMPLIANCE WITH CARES ACT

NOW COMES the Plaintiff and states as follows:

The plaintiff is seeking to recover possession of the following described premises:

The undersigned has reviewed Section 4024 of Public Law 116-136, the Coronavirus Aid, Relief and Economic Security Act (the CARES Act), and hereby certifies that the above listed premises is not subject to the CARES Act moratorium because:

The premises is not a covered dwelling as defined by Sec. 4024(a)(1) of the CARES Act; or

The premises is covered dwelling as defined by Sec. 4024(a)(1) of the CARES Act and the case was initiated prior to March 27, 2020 and the plaintiff is not seeking to charge fees, penalties, or other charges related to nonpayment of rent; or

The premises is a covered dwelling as defined by Sec. 4024(a)(1) of the CARES Act and the plaintiff does not seek possession of the dwelling bases upon the nonpayment of rent and other fees.

I declare under the penalties of perjury that this verification has been examined by me and that its contents are true to the best of my information, knowledge and belief.

Date

Plaintiff/Attorney

CARES ACT
Public Law 116-136
Explanation of Terms

Sec. 4024 TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) **DEFINITIONS.**—in this section:

(1) **COVERED DWELLING.** — The term “covered dwelling” means a dwelling that—
(A) is occupied by a tenant— (i) pursuant to a residential lease; or (ii) without a lease or with a lease terminable under State law; and
(B) is on or in a covered property.

(2) **COVERED PROPERTY.**—The term “covered property” means any property that—
(A) participates in—
(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or
(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or
(B) has a—
(i) Federally backed mortgage loan; or
(ii) Federally backed multifamily mortgage loan.

(3) **DWELLING.**—The term “dwelling”—
(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and (B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).

(4) **FEDERALLY BACKED MORTGAGE LOAN.**—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—
(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) **FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.**—The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—
(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and
(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.