



Civil Justice, Inc.



SENT BY ELECTRONIC MAIL

June 16, 2021

The Honorable John P. Morrissey, Chief Judge
District Court of Maryland
c/o
Roberta L. Warnken, Chief Clerk
roberta.warnken@mdcourts.gov

Re: Expiration of Centers for Disease Control and Prevention Order re: “Temporary Halt in Residential Evictions to Prevent the Spread of COVID-19,” (“CDC Order”) and Governor Larry Hogan’s Emergency Order 20-12-17-02 (“Governor’s Order”).

Dear Chief Judge Morrissey,

The Public Justice Center, Maryland State Bar Association Delivery of Legal Services Section, Maryland Volunteer Lawyers Service, Pro Bono Resource Center of Maryland, Homeless Persons Representation Project, Disability Rights Maryland, Community Legal Services of Prince George’s County, Civil Justice, and CASA de Maryland write to express grave concern regarding the Court’s plan for allowing thousands of eviction judgments to be entered statewide on July 1, 2021, at the expiration of the CDC’s Eviction Order without any further action by the landlord. The concerns detailed in our letter dated November 18, 2020, when the CDC Order was then close to expiration, are still present: The Court’s proposed process of automatic entry of judgment for eviction in the amount that may have been due months ago does not provide tenants due process to challenge entry of the judgment and retain their housing.

Our concerns have only been magnified since November 2020. Thousands if not tens of thousands of reserved judgments have been entered – some pursuant to the CDC Order, others pursuant to the Governor’s Order, and still others pursuant to both. Multiple reserved judgments have been entered among the same parties for different amounts and different months. Tenants have made numerous payments since those reserved judgments were entered. Rental assistance programs throughout the state have made significant payments on behalf of tenants that should satisfy such reserved judgments, and thus those reserved judgments should never be entered. Yet, the Court intends to proceed with automatically entering judgments for eviction based on evidentiary findings of the

amount of rent due and owing from up to 9 months ago – without any meaningful notice or opportunity for the tenant to dispute such entry.

The Court’s only response of which we are aware is a March 30 2021 Communication that the landlord “must affirm under oath as to the amount then due and owing based on the reserved judgment should the landlord file a petition for a warrant of restitution.” This proposed process is fundamentally flawed. The form DC-CV-081 Petition for Warrant of Restitution does not contain a certificate of service that a landlord would have to complete and thereby send the tenant a copy of the petition. And, in our collective experience, landlords do not serve a copy of the petition on the tenant in practice. Thus, again, tenants whose rent has been paid in the last nine months will have no notice that the landlord is moving forward with the judgment and warrant of restitution based on the landlord’s filing.

In our experience as well, the courts in some jurisdictions often do not mail to the tenant a copy of the order granting the petition for warrant of restitution. Or if such an order/warrant is mailed, given the decrepit state of first-class mail, the order may not arrive before the eviction is scheduled to take place. Further, most jurisdictions in Maryland do not require the landlord to send the tenant a notice of the scheduled eviction date. Thus, the Court has created a process by which thousands of tenants who have reserved judgments may be facing eviction with little-or-no notice and no meaningful opportunity to dispute the landlord’s assertion that they still owe rent. This is a grave threat to due process for tenants facing the deprivation of their homes and likely homelessness.

In the alternative, we have proposed and will propose again that the landlord be required to file under oath a request for entry of a judgment for possession and warrant for a specific amount of rent still due with a copy sent to the tenant. The tenant then would have 10 days from service to respond, dispute the landlord’s request for judgment, and request a hearing if desired. The notice to the tenant should include a simplified method for a tenant to respond such as the current form for filing a notice of intention to defend.

The same concerns will be present when the Governor’s Order on evictions ultimately expires on August 15, 2021. We are available to discuss this matter further at the Court’s convenience.

Regards,

/s/

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Public Justice Center

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MSBA Delivery of Legal Services Section

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cc:

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c/o

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