

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
16TH JUDICIAL CIRCUIT, STATE OF MISSOURI**

In re: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 and Other Orders in Response to Centers for Disease Control and Prevention Order Published on August 3, 2021

Administrative Order No. 2021-099

ORDER

WHEREAS, the 16th Judicial Circuit of the State of Missouri, located in Jackson County, Missouri has an interest in protecting the public health of the citizens of Jackson County and Court staff; and

WHEREAS, the Centers for Disease Control and Prevention, Department of Health and Human Services (“CDC”) has declared the spread of COVID-19 as a worldwide pandemic; and

WHEREAS, on September 4, 2020, the CDC’s Director issued an Order titled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID- 19” for publication in the Federal Register (“September 4, 2020 CDC Order”); and

WHEREAS, the September 4, 2020 CDC Order was effective on September 4, 2020 and was subsequently extended, most recently through July 31, 2021; and

WHEREAS, the CDC’s Director on August 3, 2021 issued an Order entitled “Temporary Halt in Residential Evictions in Communities with Substantial or High Levels of Community Transmission of COVID-19 to Prevent the Further Spread of COVID-19” (“August 3, 2021 CDC Order”); and

WHEREAS, the August 3, 2021 CDC Order provides that, subject to certain limitations and exclusions, “a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any county or U.S. territory while the county or territory is experiencing substantial or high levels of community transmission of SARS-CoV-2;” and

WHEREAS, the geographic area served by the 16th Judicial Circuit constitutes a county currently experiencing “substantial or high levels of community transmission levels of SARS-CoV-2” as that phrase is defined in the August 3, 2021 CDC Order; and

WHEREAS, like the September 4, 2020 CDC Order, the August 3, 2021 CDC Order refers to a Declaration Form (“Declaration” or “Declaration Form”) for use by tenants, lessees, or residents of residential properties according to the provisions of the August 3, 2021 CDC Order; and

WHEREAS, the August 3, 2021 CDC Order further provides that to invoke the protections of that Order, covered persons must provide an executed copy of the Declaration Form (or a similar declaration) under penalty of perjury to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live; and

▼ **WHEREAS** the August 3, 2021 CDC Order further provides that it “does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease or similar contract” and that “nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract;” and

WHEREAS, similar to prior Orders, the August 3, 2021 CDC Order defines “Evict” and “Eviction” as meaning “any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. . . .” but does not contain specific language purporting to prevent the filing or processing of legal actions and, indeed, prior interpretive guidance provided by the CDC relative to prior similar Orders stated that those Orders were *not* intended to act as a stay of legal proceedings by landlords or the entry of appropriate judgments by courts, but only the execution of writs of eviction that would result in the removal of covered persons from residential property; and

WHEREAS, the CDC Order further provides that “[n]othing in this Order precludes evictions based on a tenant, lessee, or resident:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties or interest); and

WHEREAS, pursuant to section 478.240.2, RSMo and Art. V, Sec. 15 of the Missouri Constitution, the Presiding Judge has general administrative authority over all judicial personnel and court officials in the Circuit, as well as administrative authority over dockets of the Court and the manner in which any hearings are conducted,

IT IS THEREFORE ORDERED THAT:

1. Beginning August 5, 2021, and continuing through October 3, 2021 unless modified or terminated by any subsequent Administrative Order, and prior to the issuance and/or service of any existing, pending, previously filed or newly filed writ of execution seeking to remove or cause the removal of a person from a residential property, or seeking to recover possession of any residential property for the nonpayment of rent, the party seeking the writ of

execution shall file a “Verification” with the Court in substantially the same form/format as Exhibit A attached hereto and incorporated herein, under penalty of perjury, which verifies that the party seeking the writ of execution has not been provided with an executed copy of a Declaration Form from the persons against whom the eviction is sought, or that the party seeking the writ of execution is evicting the persons on grounds not precluded by the August 3, 2021 CDC Order.

2. Any Verification filed with the Court as described in paragraph 1 above, shall contain a certification, under penalty of perjury, that the party filing the Verification and who is seeking the writ of execution has provided an executed copy of the Verification to the persons against whom the eviction is sought. The Verification shall include a notification to the persons against whom the eviction is sought, that if he/she/they contest or challenge the accuracy or veracity of the statements in the Verification, the persons against whom eviction is sought shall file with the Court, in the case number in which the writ of execution is being sought, within seven (7) days of receiving the Verification, a notice or request for a hearing on the accuracy or veracity of the statements in the Verification.

3. No writ of execution to remove or cause the removal of a person from a residential property or to recover possession of any residential property for the nonpayment of rent will be served and/or executed unless and until a properly completed Verification is filed as set forth in paragraph 1 above. If the persons against whom eviction is being sought challenge the accuracy or veracity of the statements in the Verification *and* file a notice or request with the Court seeking a hearing on the accuracy or veracity of the statements in the Verification as set forth in paragraph 2 above, a hearing shall occur and a finding/Order/Judgment by the Court will be entered and, under said circumstances, no writ of execution to remove or cause the removal of a person from a residential property or to recover possession of any residential property for the nonpayment of rent will be served and/or executed unless and until a finding/Order/Judgment is entered by the Court determining if the writ may be served and/or executed.

4. This Administrative Order does not preclude a landlord, owner of a residential property, or other person or entity with a legal right to pursue eviction or a possessory action from filing a rent and possession action and pursuing that action to judgment.

5. The Declaration referred to by the August 3, 2021 CDC Order is required to be provided to the landlord, owner of residential property or other person or entity with a legal right to pursue eviction or a possessory action and may be provided at any time - this Administrative Order does not prevent or preclude the Declaration from being provided at any time.

6. In any judgment entered in a rent and possession action during the pendency of this Administrative Order, the Judge entering said judgment shall state in the judgment the grounds for the judgment and whether those grounds are subject to the provisions of the Order or are outside the parameters of the Order.

7. If a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action has been provided with an executed Declaration Form from person(s) against whom an eviction is sought, and wishes to challenge the accuracy or veracity of any statements in the Declaration Form, said landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action may request an evidentiary

hearing before the Court. If a judgment in the case has not been entered or the Court retains jurisdiction over the case, judgment and/or writ being sought, then the request for evidentiary hearing may be filed in the pending case and heard by the judge assigned to the case. If pursuant to Supreme Court Rule 75.01 or any other applicable rule or statute, the judge who entered the judgment no longer retains jurisdiction or control over the case, judgment or writ being sought, then the party entitled to enforcement of the judgment may seek other legal remedies as deemed appropriate.

8. This Administrative Order shall be effective as of 8:00 a.m. on August 5, 2021 and shall remain in effect according to its terms through October 3, 2021 unless sooner modified or terminated by a subsequent Administrative Order.

IT IS SO ORDERED.

August 4, 2021

Date



J. DALE YOUNGS, Presiding Judge

cc: Court Administrator
All 16th Circuit Judges and Commissioners
Deputy Court Administrator - Family Court
Deputy Court Administrator – Circuit Court/Jury Supervisor
Director, Civil Process
Director, Civil Records
Legal Counsel
County Executive
County Legislators
County Administrator

EXHIBIT A
IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

Plaintiff	Defendant	Case Number

Attorney Name, Address, Bar#

VERIFICATION OF COMPLIANCE

NOW COMES the Plaintiff and states as follows:

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

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The undersigned has reviewed the CDC Order titled "Temporary Halt in Residential Evictions in Communities with Substantial or High Levels of Community Transmission of COVID-19 to Prevent the Further Spread of COVID-19 and hereby certifies:

- I have not received an executed copy of a Declaration Form from any of the tenants, lessees, or residents that I am seeking to remove; OR
- The Order authorizing eviction in this case is based on the tenant, lessee, or resident engaging in criminal activity while on the premises; OR
- The Order authorizing eviction in this case is based on the tenant, lessee, or resident threatening the health or safety of other residents; OR
- The Order authorizing eviction in this case is based on the tenant, lessee, or resident damaging or posing an immediate and significant risk of damage to property; OR
- The Order authorizing eviction in this case is based on the tenant, lessee, or resident violating an applicable building code, health ordinance, or similar regulation relating to health and safety; OR
- The Order authorizing eviction in this case is based on the tenant, lessee, or resident violating another contractual obligation other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest.
- 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. **I FURTHER DECLARE, UNDER PENALTIES OF PERJURY, THAT I HAVE PROVIDED AN EXECUTED COPY OF THIS VERIFICATION TO ALL TENANTS, LESSEES OR RESIDENTS THAT I AM SEEKING TO REMOVE.**

NOTICE TO TENANTS, LESSEES OR RESIDENTS – IF YOU CONTEST THE ACCURACY OF THE STATEMENTS IN THIS VERIFICATION, YOU MUST FILE A MOTION/NOTICE WITH THE COURT, IN THE CASE NUMBER STATED ABOVE, WITHIN SEVEN (7) DAYS OF RECEIVING THIS VERIFICATION. IF NO MOTION/NOTICE IS FILED, THE COURT MAY PROCEED WITH EVICTION BASED ON THE STATEMENTS IN THIS VERIFICATION.

Date

Plaintiff/Attorney