



To Our Valued Clients:

There have been some updates on the housing court re-opening front:

- i) On June 30, 2020: Governor Cuomo has signed into law [Senate Bill 8192B](#). This bill provides that:
 - a. No court shall issue a warrant of eviction or judgment of possession against a residential tenant or other lawful occupant that has suffered a financial hardship during the COVID-19 period for the non-payment of rent that accrues or becomes due during the COVID-19 period;
 - b. A tenant or lawful occupant may raise financial hardship during the COVID-19 covered period as a defense in a summary proceeding; and
 - c. This act shall not prohibit any court from awarding a MONETARY judgment for the rent due and owing to a successful petitioner in a summary proceeding.

- II) In addition, based on the passing of the above law, the Governor enacted [Executive Order 202.48](#) which in part removed the stay contained in [Executive Order 202.28](#) on the commencement of COVID related residential non-payment and foreclosure proceedings, while leaving it in place on commercial non-payment and foreclosure proceedings through August 20, 2020:
- a. The directive contained in [Executive Order 202.28](#), as extended, that prohibited initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, is continued only insofar as it applies to a commercial tenant or commercial mortgagor, as it has been superseded by legislation for a residential tenant, and residential mortgagor, in Chapters 112, 126, and 127 of the Laws of 2020.
- III) Now in response thereto, Supervising Judge Lawrence Marks issued his July 7, 2020 letter and Administrative Order 143/20 which removed the requirements of providing an additional COVID attorney's affirmation, or petitioner's affidavit, to be supplied at commencement of a residential non-payment petition under Administrative Order 127/20. (As the letter and Administrative Order 143/20 are not yet published on NYCOURTS.gov, we have attached it for your convenience).

Based on the foregoing, you may now commence your residential non-payment proceedings without COVID investigations as it is the responsibility of the tenant to plead and prove their COVID related harm as an affirmative defense to the proceeding. With that said, please be advised that if the tenant does prove such a harm, the arrears during the COVID period is relegated to a money judgment only.

Please be further advised that COVID investigations are still required under Executive Order 202.28 which currently prevents the initiation or enforcement of any commercial non-payment eviction proceedings through August 20, 2020.

Of course, these laws and orders do not affect holdover proceedings.

Should you have any questions on the above, please do not hesitate to contact us.

Stay tuned and stay well,

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