

Edmondson Law PC

CORONA VIRUS UPDATES OCTOBER 6, 2020

We continue to deal with three sets of rules affecting Evictions due to COVID: 1. The CARES Act has expired but has some lingering issues. 2. Arizona Executive Order 2020-49 and 3. The CDC Eviction Moratorium

WHERE WE STAND ON EVICTIONS

The only cases currently effected by COVID Regulations are those for nonpayment of rent. All other noncompliance issues proceed as usual.

It is possible that the termination dates of the Arizona Executive Order and/or the CDC Order may be extended.

1. CARES Act. The CARES Act is expired, but if you are seeking payment of rent for the months of March - July for a property that was covered by the CARES Act, the nonpayment notice must be a 30-day notice for nonpayment of rent.

2. Arizona Executive Order 2020-49. Through the end of October a tenant may have the Writ of Restitution stayed if the tenant submits to the landlord **1. Proof that he/she has applied for financial assistance. 2. A payment plan. 3. Proof that he/she suffered financial hardship as a result of COVID 19.** We can still file nonpayment case, *the only change is a delay or postponement in the Writ of Restitution* if the tenant has completed the above three steps. As it stands now, the Writ of Restitution is available to the Landlord beginning November 1, 2020 under the Arizona Executive Order.

3. The CDC Eviction Moratorium went into effect September 4, 2020. It remains in effect through December of 2020. More information on its impact on the following page.



Edmondson Law PC Useful Links

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CDC EVICTION MORATORIUM

The CDC Eviction Moratorium requires a tenant to submit to the Landlord a Statement/Declaration/Attestation stating the following things in order to delay the eviction.

1. The Tenant's income is less than \$99,000 or \$198,000 if filing jointly.
2. Tenant is unable to pay rent due to COVID lay-offs, reduced hours etc. or extraordinary out of pocket medical expenses.
3. Tenant has used his best efforts to obtain all available government rental or housing payment benefits.
4. Tenant will be made homeless or forced to cohabitate with friends and/or family in close quarters if evicted.
5. Tenant is using best efforts to make partial payments.

If the tenant submits this form, under oath, to the Landlord the CDC Eviction Moratorium is in effect for this particular tenant and the tenant cannot be evicted. Just what this means has been a bit unclear, but in Pima County the Courts have interpreted this to mean once a landlord receives the Statement from the tenant all eviction procedures must stop. The CDC has recently provided some additional information that should change the court's outlook on this. There can be fines of up to \$500,000 and up to one year in prison for violations of the CDC Order.

Update on the CDC Moratorium on Evictions

As you may or may not be aware there is a lawsuit filed in Georgia challenging the CDC Eviction Moratorium Order (*Brown v. Azar 1:20-cv-3702-JPB*). In the Secretary of Health and Human Services' response to the Plaintiff's Motion for a Preliminary Injunction, the CDC/Secretary of Health and Human Services, gave us some further insight into the intent and limitations of the CDC Order.

First, the CDC Eviction Moratorium Order does not stop the Landlord from starting an eviction proceeding. This means we can file and obtain a monetary judgment from the court. A landlord cannot, according to the CDC, have the writ of restitution issue thereby physically removing a tenant if the tenant has submitted the CDC Declaration to the landlord. Second, the Landlord is entitled to challenge the Declaration if the Landlord believes the tenant has submitted false information and/or has perjured himself/herself.

This information changes how the courts have been handling things in Arizona. First, we can proceed with obtaining judgment on eviction actions for nonpayment of rent. This gives the owner a monetary judgment on which we can try to collect and will eliminate any potential flood of eviction filings in January of 2021 when the CDC Moratorium expires. If a tenant is currently employed, we can go forward and garnish wages. Second, if the owner/landlord is aware that some statement on the CDC attestation form/declaration made by the tenant is false, we can challenge the declaration form. If it is found to be false, we can proceed with obtaining the writ of restitution and removing the tenant.



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Brunch with Blythe

Are you confused about the Latest Rules relating to Evictions and COVID? Are you interested in learning where various lawsuits challenging the Eviction Moratoriums Stand?



Grab a cup of coffee (or drink of your choice), bring your list of questions, and Join Blythe for Brunch.



Date and Time: Friday, October 23, 2020 at 11:00am

No RSVP Necessary. We hope to see you there.

Link: <https://meetings.ringcentral.com/j/1483044490>



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Have you ever asked yourself...

- The tenant damaged the property, and the security deposit doesn't cover the damages. How do I get the money for repairs from the tenant?
- The tenant left early and still owes rent?
- What information should I gather up front from a tenant in case I need to collect against him/her later?
- What is needed for a "good" collection case?
- How can I collect from a tenant?
- I have a judgment against a tenant. How do I get the money?



If you answered yes to any of the above questions, please join us for a crash course in collections for landlords

Webinar: What Landlords Need to Know about Collections

Presented by Blythe Edmondson at Edmondson Law PC

At Noon on Friday, October 9, 2020

<https://meetings.ringcentral.com/j/1494003137>