

# Edmondson Law PC

LANDLORD AND COLLECTION LAW UPDATES [FEBRUARY 1, 2021](#)

2021 continues without too many surprises. The CDC Eviction Moratorium has been extended through March of 2021. We will continue to challenge any CDC Declarations which you believe to be false.

## **Legislative Updates:**

In the Arizona Legislature bills have been introduced to establish a Low Income Housing Tax Credit (BHB2562 and SB1327.)

Additionally, a bill has been introduced to allow the continuation of virtual appearances in eviction court post COVID, SB1322.

SB1038 is attempting to increase a 5-day nonpayment notice to a 15-day nonpayment notice. HB2320 has been introduced which would allow those with a criminal record to seal their court records making it difficult for property managers to determine a criminal history thereby potentially affecting the health and safety of neighboring residents.

HB2085 and SB1095 seek to allow a non-licensed real estate agent to collect rent on behalf of a licensed agent. These bills appear to be on the fast track to passing.



## **Edmondson Law PC Useful Links**

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4525 E Skyline Dr #129, Tucson, AZ 85718  
[ContactUs@EdmondsonLawpc.com](mailto:ContactUs@EdmondsonLawpc.com) (520) 577-3435

## SAMPLE QUESTIONS WHEN TESTIFYING IN AN EVICTION MATTER

1. Your name and occupation.  
--A simple statement such as your job title and the company for which you work; full resume not needed.
2. Does the lease have a crime free lease provision?  
--In a case with criminal activity it is best to establish that the tenant has violated not only the Arizona Landlord Tenant Act, but also the lease agreement. If appearing in a case for an immediate eviction, check for a crime lease provision or crime free addendum so that you can hopefully answer this question in the affirmative.
3. Are you familiar with the tenant and/or the tenant's lease agreement?  
--One reason we have you testifying is that as a manager or witness to an event we expect you to know who the tenant is in the case and if you are a manager what provisions the lease includes. Review the lease, notice and any other relevant documentation prior to appearing as a witness. *This includes on-site managers who may not have sent the notice or keep a copy of the lease on hand.*

## Tips for Witnesses in Eviction Matters

Appearing in court can be a nerve-wracking event. It is also a unique circumstance requiring a slightly different thought process. Here are some tips for appearing in court in an eviction case.

1. Dress appropriately. Make sure you are well groomed and wearing at least business casual attire. Arrive on time or a few minutes early.

In the days of COVID and Zoom many of us change from our daytime pajamas to our nighttime pajamas, but remember a clean and tidy appearance makes a big difference. Also make sure your background is appropriate for a court hearing with Zoom.

2. Answer the question asked, and only the question asked.

In a court hearing your attorney is attempting to get some very specific and sometimes limited information to the judge in a small amount of time. While you may believe something is relevant, the attorney may have a reason for excluding it or want to present it at a different time in the case. Listen carefully to the attorney's question and answer the question directly and succinctly and only answer the question asked. If asked a yes or no question all we need is a yes or no answer.

3. Be familiar with any relevant documents in the case.

In an eviction matter the attorney may need to present evidence from the lease agreement or notice provided to the tenant. Make sure you have reviewed these documents prior to the court hearing and be familiar with them.

4. Unless asked otherwise, only testify as to what you have seen or personally know.

Anything you heard from someone else is not a firsthand account of the incident and is considered hearsay. Unless asked about what you heard from someone else, limit your testimony to what you have personally witnessed.

## What is CDC Declaration, and what does it mean?

We continue to receive many questions regarding the CDC Declaration. What is the CDC Declaration? What do we do about it or with it? First, the CDC Declaration is the document submitted to a tenant to the landlord under oath declaring 5 things.

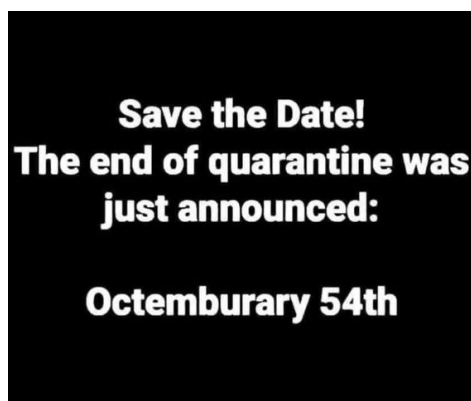
1. The tenant's income is below a certain threshold (\$99,000 if single and \$198,000 if married).
2. The tenant would be homeless if he was evicted or forced to move into a living situation with a large number of other individuals.
3. The tenant has applied for all government assistance.
4. The tenant has reduced or lost wages due to COVID or has excessive medical bills due to COVID.
5. The tenant agrees to enter into a partial payment plan with the landlord and make partial payments to the best of his ability.

By presenting this document to the landlord the eviction process is altered. The Landlord can still send all relevant notices to the Tenant (and should send all relevant notices to the tenant); however, if the tenant is being evicted for nonpayment of rent, it may delay the execution of the Writ of Restitution (the Constable coming out and removing the tenant). Unfortunately, many tenants sign the CDC Declaration, a statement made under oath with the penalty of perjury, without actually reading it.

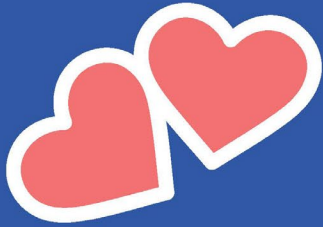
If the tenant has made a false statement on the CDC Declaration, the landlord has the right to challenge the CDC Declaration with the courts. If the Landlord succeeds in challenging the CDC Declaration the Constable could be ordered to execute the Writ and remove the tenant.

Should you challenge the CDC Declaration? It depends. If you believe there is a false statement on the CDC Declaration, you should certainly consider challenging it. The most common false statement we see at present is that the tenant agrees to enter a payment plan with the landlord and make partial payments.

**If you receive a CDC Declaration, contact our office. We need to let the Judge know if one has been received by the Landlord.** If the tenant is not making partial payments or has lied about any of the five criteria, let us know. We are happy to discuss your options in challenging the CDC Declaration.



## February Brunch with Blythe



### Tips for appearing in Court as a witness



Date and Time: Friday, February 19,  
2021 11:00am



Grab a cup of coffee and join us for an informal Zoom meeting. Blythe will briefly provide information on acting as a witness and you will have the opportunity to ask questions on any topic of your choice.



Link for Event:

<https://v.ringcentral.com/join/181978394>



WWW.EDMONDSONLAWPC.COM  
(520) 577-3435  
ContactUs@EdmondsonLawPC.COM