

**SECOND GENERAL ORDER CONCERNING LANDLORD AND TENANT CASES
FILED ON OR AFTER MARCH 11, 2020**

Issued November 10, 2021

The District of Columbia enacted a law that prohibits a person from filing a complaint seeking a judgment for possession during a public health emergency and for a period of time thereafter. The law was signed on May 13, 2021, and it applies to eviction cases filed on or after on March 11, 2020. About 600 of the cases subject to this filing moratorium remain pending.

The Court previously issued orders in cases filed on or after March 11, 2020 requiring plaintiffs to show cause why the case should not be dismissed in light of the statutory filing moratorium. Various plaintiffs contended that this moratorium is unconstitutional. On October 7, 2021, the Court of Appeals held that the moratorium does not violate the constitutional right of access to the courts: *District of Columbia v. Towers*, Nos. 21-CV-34, 21-CV-35, 21-CV-36, & 21-CV-37, 2021 D.C. App. LEXIS 287 (D.C. Oct. 7, 2021). Except in cases subject to the so-called public safety exception, the Court will issue another set of orders requiring plaintiffs to show cause why these cases should not be dismissed in light of the Court of Appeals' ruling. Responses by plaintiffs will be due within 28 days of the date of issuance of the show cause order. The response must include any points and authorities supporting any argument that the case should not be dismissed. The show cause orders will provide that if the plaintiff does not respond within 28 days, the Court will dismiss the case without prejudice and without further order.

Rule 42(a)(1) authorizes the Court to issue "any" order "to avoid unnecessary costs or delay" when actions "involve a common question of law." The Court expects the responses to these show cause orders to raise questions of law common to multiple cases. In addition, it is unclear whether all parties will consent to resolution of these legal questions by magistrate judges, and it would avoid unnecessary costs and delay, and promote the just, speedy, and inexpensive determination of these cases, for a single associate judge to resolve common questions of law in these cases.

Accordingly, the Presiding Judge of the Civil Division will adjudicate all questions of law common to any eviction cases filed on or after March 11, 2020 in the Landlord and Tenant Branch. The Presiding Judge's authority in these cases includes the authority to determine whether the question of law is common to enough cases that it would promote the just, speedy, and inexpensive determination of these cases for him to resolve it.

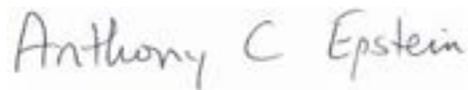
This authority also includes the authority to establish procedures to resolve questions of law common to these cases. These procedures will give defendants a full and fair opportunity to address any legal issues raised by plaintiffs in their response to the show cause orders, as well as give plaintiffs a full and fair opportunity to address any legal issues raised by defendants in any response that they file. No defendant is required to respond to the show cause order or to anticipate in its response any legal arguments that the plaintiff may raise in its response.

Consolidation of these cases under Rule 41(a)(1)(B) is not warranted, and questions of law not common to multiple cases and questions of fact will be resolved by the calendar judge. The Presiding Judge has discretion to determine whether proceedings before the calendar judge will be postponed or stayed until he resolves common questions of law.

In resolving a common question of law in one case, the Presiding Judge will consider filings in other cases concerning the same question of law. In addition to filing and serving any document, parties should email a courtesy copy to the Presiding Judge at JudgeEpsteinChambers@dcsc.gov. It is not necessary for any party or legal services provider to file a motion to intervene, a motion for leave to file an *amicus* brief, or a brief in all or multiple cases involving a common question of law, and the Court discourages this practice. Filing the same basic brief in multiple cases only because those case involve a question of law common to a case in which the filing party or legal services provider has a direct interest would impose unnecessary costs both on the filer and on the Court, as well as result in unnecessary delay.

Nothing in this order relieves any plaintiff in any eviction case filed on or after March 11, 2020 in the Landlord and Tenant Branch of the obligation to file a response to the show cause order issued in that case. A plaintiff's response in one case may incorporate by reference that plaintiff's response in another specified case or the response of different plaintiffs in another specified case concerning a common question of law. Likewise, a defendant's response in one case may incorporate by reference that defendant's response in another specified case or the response of different defendants in another specified case concerning a common question of law.

Issued on November 10, 2020 by the Presiding Judge of the Civil Division.



Anthony C. Epstein
Presiding Judge
Civil Division
Superior Court of the District of Columbia