

SUPREME COURT OF OKLAHOMA

Order Regarding the Coronavirus Aid, Relief, and Economic Security Act

2020 OK 22 · Decided May 1, 2020

SUMMARY

The Supreme Court of Oklahoma adopted a temporary pleading requirement for eviction actions filed on or after March 27, 2020, requiring plaintiffs to affirmatively plead whether the property is a covered dwelling under Section 4024 of the CARES Act. The order requires use of a verification form and remains effective until further order of the Court; Justice Rowe dissented.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Per curiam; Noma D. Gurich, Chief Justice; Darby, Vice Chief Justice; Kauger, Justice; Winchester, Justice; Edmondson, Justice; Colbert, Justice; Combs, Justice; Kane, Justice; Rowe, Justice
JURISDICTION	Oklahoma
DECIDED	May 1, 2020
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Oklahoma issued an administrative order under its superintending authority to implement temporary pleading requirements for residential eviction actions during the COVID-19 pandemic.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court administrative order

TOPICS

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PRACTICE AREAS

[Landlord-tenant law](#) [Civil procedure](#) [Emergency judicial administration](#)

QUESTIONS PRESENTED

1. Whether the Supreme Court of Oklahoma should require plaintiffs in residential eviction actions to plead whether the property is a covered dwelling under the CARES Act.

2. Whether the Court should require a verification of compliance with Section 4024 of the CARES Act in covered eviction proceedings.

HOLDINGS

1. Pursuant to its superintending authority under Article 7, Section 4 of the Oklahoma Constitution, the Supreme Court of Oklahoma required plaintiffs filing a petition for forcible entry and detainer or an affidavit for possession on or after March 27, 2020, to affirmatively plead whether the property involved is a covered dwelling under the CARES Act.
2. The Court mandated use of the attached Verification of Compliance with Section 4024 of the CARES Act for new filings and required plaintiffs to supplement pending cases lacking the verification, until further order of the Court.

KEY QUOTATIONS

“In order to address residential evictions, an issue that has health and safety implications, and pursuant to our superintending authority under Article 7, Section 4 of the Oklahoma Constitution, this Court adopts and mandates the implementation of the following temporary pleading requirement.” (¶ 2)

“This temporary pleading requirement merely reflects the Act’s moratorium prohibiting the lessor of a covered dwelling from filing a legal action to recover possession of the property for nonpayment of rent.” (¶ 3)

FACTUAL BACKGROUND

Congress enacted the CARES Act, including a temporary moratorium on certain eviction actions involving covered dwellings. In response to the health and safety implications of residential evictions during the COVID-19 pandemic, the Oklahoma Supreme Court adopted a temporary pleading requirement requiring eviction plaintiffs to identify whether the property is a covered dwelling under the CARES Act. The requirement applies to new filings and requires supplementation of pending cases.

PROCEDURAL HISTORY

The order was issued by the Supreme Court of Oklahoma in conference. It applies to new and pending forcible-entry-and-detainer actions and affidavits for possession filed on or after March 27, 2020. The order was effective upon filing; two justices dissented in whole or in part.

DISPOSITION

other

OPINION

PER CURIAM.

ORDER REGARDING THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:ORDER REGARDING THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT Previous Case Top Of Index This Point in Index Citationize Next Case Print Only ORDER REGARDING THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT2020 OK 22Decided: 05/01/2020THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2020 OK 22, __ P.3d __ ORDER REGARDING THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT, PUBLIC LAW NO. 116-136) 1.

The Supreme Court continues to issue orders implementing emergency procedures to address the challenges raised by the COVID-19 pandemic. In response to this pandemic, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, Public Law No. 116-136).

The law includes important, immediate protections for tenants and homeowners. 2. In order to address residential evictions, an issue that has health and safety implications, and pursuant to our superintending authority under Article 7, Section 4 of the Oklahoma Constitution, this Court adopts and mandates the implementation of the following temporary pleading requirement.

A. In support of a Petition for Forcible Entry and Detainer or Affidavit for Possession filed on or after March 27, 2020, the date of passage of the CARES Act, the Plaintiff in any action for eviction shall affirmatively plead that the property that is the subject of the eviction dispute is or is not a covered dwelling under the CARES Act. B. This requirement shall be met by the filing of the attached VERIFICATION OF COMPLIANCE WITH SECTION 4024 OF THE CARES ACT.

The Plaintiff shall supplement all pending cases where the Petition or Affidavit for Possession was not filed with a Verification of Compliance with Section 4024 of the CARES Act. All new filings must comply with this order until further order of this Court. 3. This temporary pleading requirement merely reflects the Act's moratorium prohibiting the lessor of a covered dwelling from filing a legal action to recover possession of the property for nonpayment of rent.

See CARES Act Section 4024(b). This requirement shall remain in force and effect until further order of this Court. 4. This order is effective upon the date of filing. DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 1st day of May, 2020. /s/Noma D. Gurich, Chief Justice Gurich, C.J., Darby, V.C.J., Kauger, Winchester, Edmondson, Colbert, and Combs, JJ., concur; Kane, J., concurs in part and dissents in part; Rowe, J., dissents (by separate writing).

Verification of Compliance with CARES Rowe, J., dissenting: ¶1 This order and the pleading requirement it imposes are meant to ensure compliance with the temporary moratorium on state

eviction proceedings imposed by Section 4024 of the CARES Act. ¶2 Under Oklahoma law, forcible entry and detainer actions are often filed on the small claims docket. 12 O.S. § 1148.14.

The verification approved by the Court today places the burden on Plaintiffs (landlords) to verify their compliance with the requisites of the CARES Act. The verification must be signed under penalty of perjury. Many parties appearing on the small claims docket appear pro se; they file their pleadings without the assistance of counsel. A verification mistakenly completed could result in a criminal charge, or, result in an action being dismissed by the court sua sponte. ¶3 I am confident that judges can apply the protections afforded in the CARES Act to Defendants in accord with both federal and state law, without the requirement of this verification which may, inadvertently, create a roadblock to Plaintiffs' access to court. ¶4 Accordingly, I respectfully dissent.

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