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From: jttlaw@aol.com
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To: Comments Mailbox
Subject: [External]Report of Judiciary Committee on Landlord Tenant

Mr. Grant and Members of the Committee:

I have read and reviewed the Report generated by the Committee on Landlord Tenant. While I applaud the effort and do agree with some of the proposals therein, I am gravely concerned by many of the others.

Please note that I primarily represent landlords. Most of my clients are small landlords who own one to a few units. Individually and as a group, these folks have been harmed financially by the pandemic and moratorium more than any other group. They do not have the protection from expense that a tenant may have due to the moratorium, except in narrow circumstances, and if they have an eviction that can proceed under E.O. 106 and Directive #20-20, it often comes at a heftier price, since the evictions occur after the wayward tenant has damaged or destroyed the property, usually far in excess of the security deposit (which may in some cases be expended by the Tenant to pay for rent under a related E.O.). Continued extensions of the moratorium, which appears to be on the horizon, will worsen an already desperate situation for some. Many of the proposals hit this group of landlords particularly hard, and should be reconsidered. Many smaller landlords, once they can remove non-paying tenants, are already looking to leave the market, reducing rental opportunities for tenants who need housing. I would suggest that your review the reforms and consider the plight of the small landlord before implementing some of them.

Before we start discussing prospective reforms, we need to address the cases pending now and the ones that will flood the court in the future from the pandemic and the lifting of the moratorium. Based on my experience, both prior to the pandemic and currently, there a number of proposals that I would make.

First, more judges. Regardless of the hiring of new personnel to assist and facilitate the process of resolving cases, which is something that makes sense, you need more judges handling these cases, especially in high volume counties. Fill the vacancies, train the judges as quickly as possible, and get them on these cases. The LT courts, lately, have been assigned to retired Judges on recall. And while some of them have done very well, particularly Judge Harrington in Burlington County and Judge Wells in Camden County, we need more Judges to adjudicate cases, especially those that don't settle, and move them along.

Second, do not make any changes, such as requiring LCIS or TCIS, or enhanced review, to current cases. Many cases have been sitting filed for over a year. Move them along. Make those proposals prospective only. There needs to be adjudication of these cases. If the old maxim of "justice delayed is justice denied" then moving the cases along as quickly should be the first priority, not imposition of new processes or procedures.

As for the Case Management Conferences, I would limit those to commercial cases or residential cases that are not based solely on non-payment. Most non-payment cases are clear and should proceed to either settlement or trial. I would also have the CMC and the Mandatory Settlement Conference as one event. There is an efficiency in the current system that should not be thrown out, or unduly sacrificed--the less contact in the courts for both parties the better.

Regarding the requirement of a lease with the filing of a case by the landlord, what if the lease is oral, which is a situation that I have encountered more than once? Your form should address that circumstance, perhaps with an area where the plaintiff could spell out the terms on the LCIS and the defendant could counter-respond on the TCIS.

On Marini cases, I think the standard should be a full deposit, absent a court determination otherwise. I think that there should be proofs submitted as to a reduction that both parties should have the opportunity to question. I had a case recently when a tenant claimed that she made expenditures to the court which the court accepted which turned out to be fraudulent, and would have been discovered as such if the documents had been presented to the court. If the standard is less than 100%, any adjustment should be supported by documentary or testamentary evidence, and in the case of claimed expenditure as the basis for an enhancement or a decrease, written proof of the expenditure should be provided.

On the plus side, there is the need for pro bono credits (sometimes it helps to have a lawyer representing a tenant, especially when the tenant is volatile or has a wont to espousing frivolous claims), for consistent warrant of removal and judgment of possession forms.

If you have any further questions, please do not hesitate to contact me.

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