



The Supreme Court's New Eviction Orders

Supreme Court's Access to Justice Statewide Forms Project

- ▶ In 2012, the Illinois Supreme Court established the Access to Justice Commission (SCR 10). A key part of the Commission's work was creating standardized court forms that could be used by SRLS.

Rule 10-101: Standardized Forms

(a) The Illinois Supreme Court Commission on Access to Justice shall establish a process to develop and approve standardized, **legally sufficient** forms for areas of law and practice where the Commission determines that there is a high volume of self-represented litigants and that standardized forms will enhance access to justice.

(b) The Commission shall establish **a process for publication, review and approval of any proposed standardized form** in accordance with the Supreme Court's administrative order regarding standardized forms.

(c) Standardized forms approved by the Commission may be used by any party wherever they are applicable and **must be accepted for filing and use by all courts.**

(d) Courts may not require that parties use an altered standardized form except that **a court may modify a standardized form order** as necessary or appropriate to adjudicate a particular issue, claim or action.

(e) **A party may supplement a standardized court form with additional material as long as the form is not altered.**

In Eviction Cases

- ▶ The Eviction Forms Sub-Committee creates eviction forms. Members include myself (Matt Hulstein), plus many members of the eviction bar:
 - ▶ Plaintiff / Defense
 - ▶ Private Practice / Legal Aid
 - ▶ Upstate / Downstate
 - ▶ Plus a judge and members of the AOIC
- ▶ All forms have been drafted, and around half have been released publicly. The rest are in various stages of review.
- ▶ The Agreed Orders and Eviction Order have been fast-tracked due to COVID-19 and budding eviction mediation programs.
- ▶ The approved Eviction Order *must* be used (735 ILCS 5/9-109.6). The other forms *may* be used and *must* be accepted (SCR 10-101).

The Agreed Orders

- ▶ The Supreme Court's Agreed Orders are based on a collection of work-out options and standard orders that have been used in Circuit Courts for years.
- ▶ Basic format: Tenant agrees to do something. If Tenant complies, case dismissed. If Tenant doesn't comply, Landlord gets an eviction order.
- ▶ The forms provide for a huge range of agreements.
- ▶ Should set down as many terms as possible to avoid ambiguities.

Oh the possibilities...

- ▶ Tenant Leaves:
 - ▶ Agreed Move Out
 - ▶ Agreed Eviction Order (technically possible, but discouraged)
- ▶ Tenant Stays:
 - ▶ Stay and Pay
 - ▶ Dismissal with Leave to Reinstate
 - ▶ Repayment Plan
 - ▶ Probationary Agreement

Supreme Court's Forms Website

- ▶ <http://illinoiscourts.gov/Forms/approved/eviction/eviction.asp>

Other Possible Terms

- ▶ Waiver of claims and defenses
- ▶ Procedural rights
 - ▶ Discovery
 - ▶ Jury trial
- ▶ Neutral reference
- ▶ Sealing
- ▶ Others?

A Note on Sealing...

- ▶ In an eviction filing on a tenant's background check makes it much harder to find a decent apartment, even if an eviction order is never entered.
- ▶ The Eviction Act provides for two kinds of sealing (735 ILCS 5/9-121):
 - ▶ Mandatory (foreclosure-related) and
 - ▶ Discretionary
- ▶ For Discretionary Sealing, must show three elements:
 - ▶ plaintiff's action is sufficiently without a basis in fact or law, which may include a lack of jurisdiction,
 - ▶ that placing the court file under seal is clearly in the interests of justice, AND
 - ▶ that those interests are not outweighed by the public's interest in knowing about the record.
- ▶ "Parties' Agreement" is not a basis for sealing. However, Parties can stipulate that the three elements are met.
- ▶ What about Rule 137 sanctions for plaintiff!?
 - ▶ Form order will clarify that an order to seal is not a finding that Rule 137 was violated (different standards).