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MODIFICATION OF STANDING ORDER REGARDING CORONAVIRUS DISEASE (COVID-19) MITIGATION TO ALL MCLENNAN COUNTY JUSTICE COURTS (Order No. 4)

1. The Justices of the Peace in McLennan County issue this order pursuant by the authority granted by law and by all emergency orders regarding the COVID-19 state of disaster issued by the Supreme Court of Texas and Court of Criminal Appeals of Texas. This order is in response to the "FORTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER" by the Supreme Court of Texas regarding evictions to recover possession of residential property.
2. This order supplements and does not replace the "STANDING ORDER REGARDING CORONA VIRUS DISEASE (COVID-19) MITIGATION TO ALL MCLENNAN COUNTY JUSTICES OF THE PEACE (JUSTICE COURT) UPDATED APRIL 6, 2020 (Order No. 3)".
3. The term "residential eviction for threat to person" in this order shall be defined as residential eviction cases where it is shown that the actions of the tenant, or the tenant's household members or guests, pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity. This order only applies to residential evictions for threat to person. Residential eviction for threat to person are added to the definition of essential court proceedings as defined in Order No. 2.
4. In such cases describes in Paragraph 3 of this order, the stay of proceedings ordered in Order No. 2 does not apply, and for the cases described in Paragraph 3, the normal deadlines and timelines, including appeal deadlines, required by the Texas Property Code, Texas Rules of Civil Procedure, and any applicable law prior to all COVID-19

orders apply, except Justice Court's discretion in order to prioritize public health and avoid risk to court officers/staff and members of the public.

5. The procedures for filing a residential eviction for threat to person are modified from current procedures as follows:
 - a. A plaintiff that is filing a residential eviction for threat to person must file with the "McLennan County Justice Court's Sworn Complaint for Forcible Detainer for Threat to Person or For Cause" document that is attached to this order. The Justice Court shall not set this case for hearing unless the "McLennan County Justice Court's Sworn Complaint for Forcible Detainer for Threat to Person or For Cause" is filed.
 - b. After the case is filed with the Justice Court, the Justice of the Peace as soon as practicable shall review the "McLennan County Justice Court's Sworn Complaint for Forcible Detainer for Threat to Person or For Cause" and if the complaint makes a prima facie case that it is a residential eviction for threat to person, then the Justice of the Peace shall sign an order setting the case by telephonic/video conference setting only. Each Justice Court will develop a procedure to notify the litigants how to participate by telephone/video conferencing and the procedures to conduct the setting by telephone/video conferencing. If a prima facie case is not made, then the Justice Court shall set the case after May 8, 2020 like all other eviction cases.
 - c. The Constables of McLennan County are ordered to use their best discretion, prioritizing public health and deputy constable safety, in serving court papers and executing writs in this case and may delay serving court papers and executing writs as necessary.
 - d. Setting, hearing, and any post judgment remedies (including appeal deadlines) shall follow the time schedule as outlined in the Texas Property Code and Texas Rules of Civil Procedures, except when not practicable in accordance with the Justice Court's COVID-19 mitigation plan and no tolling of time shall take place on these cases.
 - e. Any judgment for residential eviction for threat to person must be announced on the same telephonic/video conference as the trial and the Justice of the Peace must inform the losing party of the process for submitting an appeal while complying

with the Justice Court's requirement of filing only the E-File or email during the COVID-19 state of emergency.

- f. During the trial, the Justice of the Peace shall first determine if the actions of the tenant, or the tenant's household members or guests, pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity. Only after such affirmative finding can the Justice of the Peace then consider the grounds for eviction. If no affirmative finding is made then no decision as the ground for eviction shall be determined, and the Justice of the Peace shall abate the proceeding until after May 8, 2020, and shall not render a final judgment until after May 8, 2020.
- g. If the Justice of the Peace during the trial finds that the filing of this case and allegation of threat to others was a pretext in order for the Justice Court to hear an eviction case circumventing the Court's delay of hearing eviction cases until after May 8, 2020, then the Justice Court can require the Plaintiff to show cause as to why the filing was not pretextual. The Justice Court may sanction the Plaintiff for a bad faith filing, awarding the Defendant all costs for inconvenience, harassment, out-of-pocket expenses incurred or caused by the subject of litigation, and attorney's fee; and/or ordering the Plaintiff to pay a penalty into the Court. In addition, the Justice Court can find the Plaintiff in contempt of court after a show cause hearing with such punishment being a fine and/or day in jail.

This order is in effect immediately and shall expire May 8, 2020.

The time periods in this order may be extended in a subsequent order if required.

Signed on April 6, 2020 at 4:28 P.M.



Judge David W. Pareya

On behalf of the Justices of the Peace, McLennan County, Texas