

2020 OK 22

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

SCAD 2020-38

PUBLISH 3 X OBJ

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

MAY 01 2020

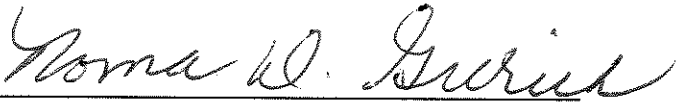
JOHN D. HADDEN

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 1<sup>st</sup> day of May, 2020.

  
\_\_\_\_\_  
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 CAR1

IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY  
STATE OF OKLAHOMA

\_\_\_\_\_, )  
PLAINTIFF, )  
VS. ) CASE NO.: \_\_\_\_\_  
\_\_\_\_\_, )  
DEFENDANT. )

VERIFICATION OF COMPLIANCE  
WITH SECTION 4024 OF THE CARES ACT

I, \_\_\_\_\_, in support of Petition for  
Forcible Entry & Detainer or Affidavit for possession of the dwelling unit located at:

\_\_\_\_\_

submit this Verification of Compliance with Section 4024 of the CARES Act.

1. I am \_\_\_ the Plaintiff or \_\_\_ an authorized agent of the Plaintiff in this action.
2. The facts stated in this Verification are within my personal knowledge and are true and correct.
3. I submit this Verification in support of this action with knowledge of my pleading obligations under 12 O.S. § 2011.
4. This action is being filed due to the non-payment of rent, fees, or other charges.  
\_\_\_ Yes \_\_\_ No
5. The property underlying this action is subject to a mortgage: \_\_\_ Yes \_\_\_ No.
6. If yes to paragraph 5, the mortgage is a federally backed mortgage loan or federally backed multifamily mortgage loan as defined in Section 4024(a)(2)(B) of the CARES Act and explained below: \_\_\_ Yes \_\_\_ No

A federally backed mortgage is defined as any loan subject to a lien that was made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by the Federal Government, or that is purchased or securitized by Freddie Mac or Fannie Mae.

7. The property underlying this action is a “covered property” as defined in Section 4024(a)(2)(A) of the CARES Act and specified below: \_\_\_ Yes \_\_\_ No

A "covered property" includes any property that participates in any of the following programs or receives funding from any of the following sources:

- Public Housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Voucher program (42 U.S.C. § 1437f)
- Section 8 project-based housing (42 U.S.C. § 1437f)
- Section 202 housing for the elderly (12 U.S.C. § 1701q)
- Section 811 housing for people with disabilities (42 U.S.C. § 8013)
- Section 236 multifamily rental housing (12 U.S.C. § 1715z-1)
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing (12 U.S.C. § 1715l(d))
- HOME (42 U.S.C. § 12741 et seq.)
- Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)
- McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)
- Section 515 Rural Rental Housing (42 U.S.C. § 1485)
- Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
- Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
- Section 538 multifamily rental housing (42 U.S.C. § 1490p-2)
- Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)
- Rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r).

8. I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title/Position

\_\_\_\_\_

Address

\_\_\_\_\_

Phone

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**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.