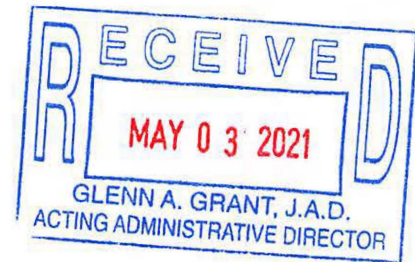


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Glenn A. Grant, J.A.D.
Active Administrative Director of the Courts
Comments on Report of the Judiciary Special Committee on Landlord Tenant
Hughes Justice Complex
PO Box 037
Trenton, NJ 08625-0037

April 27th, 2021

Dear Honorable Grant,

My name is Jed Sampson, and I am the VP for Computex Information Services, Inc. Our firm assists landlords and property management companies with bookkeeping services, including rent collection and coordination with NJ law firms focused on landlord tenant proceedings. We have been in business for over 30 years, which includes appearing in nearly every vicinage and working with residents to resolve rental disputes. Our goal throughout our time in business has been to actively seek settlement agreements, work with agencies that provide assistance funding, and to ensure continued housing stability, while bringing in rental income for our clients.

After a thorough review of the Special Committee's report, I would like to highlight my opposition, and provide possible solutions to assist in the effort to update and streamline operations in landlord tenant court.

Throughout the Committee's report, it is clear of its intention to "reexamine and reform landlord tenant". However, many aspects of landlord tenant have worked well for decades. I believe it can continue to work, and will become more efficient with the Judiciary moving to a remote first work format.

The Committee's report is heavily favored in support for tenants. It requires the landlord to submit multiple new forms, and at certain times those documents must be served by the landlord and/or their attorney. It proposes multiple appearance conferences, which would involve additional attorney time incurred to landlords. It prolongs the amount of time until an actual trial would be scheduled, which adds to the hardship of all landlord's, as there has not been any cases heard for non-payment of rent since March, 2020.

Although the Judiciary attempts to be a uniform statewide system, it is not. Our experience in nearly every vicinage proves that each courthouse goes by their own rules. The Judiciary has a responsibility to serve the general public and act as an independent natural entity. That is not only necessary, but it is a

pillar of democracy. The report provided by the Special Committee pulls the Judiciary away from being a finder of fact, with an unbiased position.

With the proposed changes, as stated in the report, the Judiciary will need to expand its resources, and hire additional personnel. With court costs already at all-time highs, it is worrisome that these costs will increase. If a landlord is further burdened by an increase in costs, and additional appearances needed by their attorney, it will eventually fall to the tenant, as most leases call for the fees and costs to be paid by the defendant, should the plaintiff prevail.

Landlords have experienced extreme hardships over the past year, shouldering the burden of the pandemic, caused by targeted legislative actions and Executive Orders. Landlords of all sizes in NJ have been forced to cut its workforce, file for bankruptcy, and in some cases lose their investments and homes. This has an impact on our communities, as small businesses and vendors that help supply and support landlords have been directly impacted.

The process to provide rent relief has also been handled in a poor way. Many agencies bring harsh conditions if a landlord accepts funding. Lottery systems do not help everyone, and many tenants that owe back rent simply do not care enough to apply. Without the consequence of eviction, tenants have taken advantage of living rent free, and will eventually move owing extremely high arrears once the Judiciary decides to resume trials that actually lead to judgments for possession. Moreover, the Judiciary should not wait until the Moratorium expires to start the endeavor of handling its backlog of cases, and future filings to come. If the Judiciary started processing these cases, similar to how all other aspects of law have continued remotely throughout the past year, it will help to resolve long standing disputes, some that originated prior to COVID.

The inaction from the Judiciary and the Executive branch in NJ has caused this problem. Remote trials that result in judgments for possession should have been continued since the pandemic began. While the Moratorium is in place, the Judiciary should allow judgments that are awarded to remain active, as well as any judgments that were issued and about to be executed prior to the statewide shutdown in March, 2020. Once the Moratorium is lifted, these cases should continue without any further delay.

The recommendations within the report shift landlord/tenant court from a summary proceeding, to one that involves discovery. With all of the added steps and responsibilities that fall to the landlord and/or their attorney to complete, I suggest that the Judiciary provides a money judgment as well as a judgment for possession in favor of the landlord, should they prevail at trial and/or receive a default.

The Special Committee writes in their report that there must be a court system to handle housing stability. The Judiciary should continue to serve as a neutral entity, as it did prior to the pandemic. Landlords have the responsibility to provide fair and equal housing opportunities, while also maintaining apartments and/or buildings in good working conditions. It is the responsibility of the tenant to pay rent timely, and maintain behavior that is expected within the community.

If the Special Committee has a goal to adopt policy changes that would ensure equal justice for all, I suggest that most of its recommendations not be accepted. Hopefully my solutions stated within bring upon discussion, which would lead to adjustments and changes. I welcome any input to help improve landlord tenant court so that both parties can be served equally by the Judiciary once again.

Very truly yours,



Jed Sampson
V.P.

Opposition to Recommendation #1:

Creating the Landlord Case Information Statement (LCIS) places a burden on Landlord's, while much of the information is already included in the Summons & Complaint forms. This includes previously uploaded CARES Act certifications that the Judiciary has, while many cases are not subject to the Act due to timing of filing. This extra step will dramatically slow down the filing process, and if the LCIS is only made available through the Judiciary's electronic filing and case management system, it generates a major hurdle for any landlord and/or their attorney if filing a higher volume of cases.

Solution to Recommendation #1:

If the LCIS is adopted, Landlord's and/or their attorney's should have the ability to submit it electronically as part of the Summons & Complaint form. Landlord's and/or their attorney's should have the ability to submit the LCIS in the same upload as the Summons & Complaint, thus eliminating an extra filing step which can be difficult to keep track of when uploading multiple filings. For Landlord's and/or their attorney's that upload the LCIS after the initial submission of the filing, a separate option should be in the menu set of the available reports to upload on the website.

Opposition to Recommendation #2:

Much of the data within the Tenant Case Information Statement (TCIS) is again already provided within the Summons & Complaint forms. The questions posed in the TCIS influences responses by the tenant that would delay the proceeding, and advance Marini hearings when there is no actual cause. There is a big difference between withholding rent, and not having it. The court and its staff will be burdened to review the statements made by the tenant, while many will willfully lie to purposely delay the filing process. With no real timetable for the TCIS to be accepted by the Judiciary, it creates less time for the Landlord and/or their attorney to review, and prepare evidence to dispute the claims made by the tenant.

Solution to Recommendation #2:

If the TCIS is adopted, tenants should have a strict deadline to provide a copy to the court, and also serve a copy to the Landlord and/or their attorney. Any tenant that makes a claim for habitability should be required to provide specific evidence, including pictures, work orders, repair invoices...etc. Any tenant that willfully provides false statements, or is purposefully delaying the filing process should face harsh consequences, including immediate entry of judgment, a nearer trial date, or a waiver to any future case management conference to make up for lost time.

Opposition to Recommendation #3:

Implementing a process designed to review and seek out deficiencies in documents submitted by the Landlord and/or their attorney's is a targeted operating by the Judiciary to delay the filing process. The Committee's report did not provide a sample of the checklist that would be used. Due to inconsistencies through each vicinage, it would be nearly impossible for the Landlord and/or the Landlord's attorney to submit documents that meet the requirements of each vicinage.

While the Judiciary aims to be a uniform in its forms and processes statewide, it is clear that each vicinage handles matters as they see fit. Landlords have been constant victims of inconsistent workflows on a county-by-county basis. Additionally, court staff have made numerous errors that specifically delay the filing process, including incorrectly marking cases that have a direct impact on the filing process.

Solution to Recommendation #3:

If the Judiciary implements this extra review period, a copy of the checklist being used should be made available to all Landlord's and/or their attorneys for reference. If the checklist is refined, an updated version should also be made available. Lastly, if the Judiciary adopts this review, it should be conducted within one business day of the time of filing upload. If no deficiencies are found, the Judiciary should notify the Landlord and/or their attorney electronically. As the report states, the Judiciary should provide sufficient time for the Landlord and/or their attorney to cure, adding no penalties or additional fees for uploading corrected documents.

Opposition to Recommendation #4:

Establishing a Landlord Tenant Legal Specialist Program (LTLS) would move the Judiciary away from its neutral position, as court employees that bring information to a Judge can do so in a persuasive manner, without any transparency. Direct contact with a Judge prior to any trial will create the opportunity for a biased outcome. The report is not specific as to when the LTLS would become involved, or when their findings would be issued to a judge. It does not also provide a time frame for how long a Judge has to review the information. The creation of the LTLS would further delay the court process, and add costs to the Judiciary.

Solution to Recommendation #4:

If the Judiciary moves forward with the LTLS, the findings should be made available to all members of each party. Any statements written by the LTLS should be reviewed by each party member prior to submission, with any notes that include opposition or dispute to any of the statements within. Instead

of the court employing the LTLS, they should instead be hired as independent contractors that have no financial consistencies with the Judiciary.

Opposition to Recommendation #5:

Case Management Conferences will add multiple weeks of delay to the filing process. This is again another event that is burdensome for the Landlord, as it delays a resolution and/or a payment from the resident. Everything accomplished at a Case Management Conference can be achieved in an actual trial, which has been absent since March, 2020. The Judiciary tried to implement "Pre-trial settlement hearings" throughout this pandemic, however virtually no tenants responded as there were no consequences for non-appearance. Additionally there were multiple reports for Legal Service attorney's actively informing tenants not to attend these hearings.

Solution to Recommendation #5:

After the filing has been served, a remote trial should be scheduled approximately 3-4 weeks from the time of submission. On the trial date, both parties should enter a mandatory conference, and attempt to resolve and settle their case. At this time, either party can elect to proceed to a trial. If one party does not appear at the first trial, a second trial should be scheduled to be heard within 10 days. If both parties do not appear at the first trial, the case shall be dismissed. If the same party does not appear at the second trial, the Judiciary should enter a judgment for possession against the defendant, or a dismissal for the Plaintiff.

Opposition to Recommendation #6:

I personally do not have any objections to requiring a lease and a registration to be submitted. However, similar to prior notices, these documents should be allowed to be uploaded along with the Summons & Complaint to help streamline the process. Otherwise, it becomes burdensome for the Landlord and/or their attorney to submit these documents with high case volumes.

I strongly oppose the need to serve the tenant and or tenant's attorney with these documents. Proof of service will most likely come through certified mail, which is costly and time consuming. Once uploaded, the Judiciary can provide a copy (if requested) to any member of either party. Further, a certification of the lease and registration statement seems unnecessary, and yet another obstacle for the Landlord and/or their attorney.

Solution to Recommendation #6:

The Landlord and/or their attorney should have the ability to upload the lease and registration certificate along with the Summons & Complaint, electronically. There should also be a separate option under the menu set for this, if submitting these documents at a later time.

Opposition to Recommendation #7:

Requiring Case Management Conferences will delay the filing process, as noted in my opposition to Recommendation #5. The Judiciary should not be in a position to connect tenants with Legal Services, as this will cause undue delays. The consequences outlined under this Recommendation from the Committee have no impact if the Judiciary will vacate a judgment that was previously entered, or

reinstate a case if it was already marked for dismissal. Either party should not have the ability to skip the proposed Case Management Conferences, and just appear without any real consequence at the trial.

Solution to Recommendation #7:

Similar to my solution in Recommendation #5, the Judiciary should proceed to schedule a remote trial 3-4 weeks after the filing is submitted. On the trial date, both parties should enter a mandatory conference, and attempt to resolve and settle their case. At this time, either party can elect to proceed to a trial. If one party does not appear at the first trial, a second trial should be scheduled to be heard within 10 days. If both parties do not appear at the first trial, the case shall be dismissed. If the same party does not appear at the second trial, the Judiciary should enter a judgment for possession against the defendant, or a dismissal for the Plaintiff.

Opposition to Recommendation #8:

Settlement conferences at this stage in the process as proposed by the Committee would further delay the court action. Hiring at LT specialist will incur costs to the Judiciary, which are anticipated to be passed to the Landlord through court costs.

Solution to Recommendation #8:

A mandatory settlement conference should be administered on the trial date, only when both parties appear.

Opposition to Recommendation #9:

The Judiciary should not provide an option for a settlement agreement to exclude entry of judgment for possession. This does not seem reasonable, and there is no incentive for the Landlord to sign such a document. Once a filing is submitted, it will often appear on a credit reporting service. Changing the settlement agreements to delay entry of a judgment will not help the tenant with credit reporting. If all settlement agreements involving entry of judgment have to be reviewed and approved by a Judge, it will handcuff both parties to try and resolve the matter with a settlement agreement that is conducted outside of the courthouse.

Solution to Recommendation #9:

If the Judiciary's main purpose is to help harmful credit reporting, it should work along with the Legislature to propose bills that would change when Landlord Tenant cases appear on credit reports. The Judiciary should be in favor of the party members settling cases outside of the courthouse. Upon a signed agreement, the Landlord and/or their attorney should upload the agreement electronically so that the court can properly mark the case.

Opposition to Recommendation #10:

It should not be the Judiciary's position to take extra steps for tenants that are not represented by legal counsel. If the tenant chooses to appear without an attorney, they should be able to sign settlement agreements with the need for them to be reviewed by a judge. This again reduces the option to settle matters outside of the courthouse, and causes more of a delay in the overall process.

Solution to Recommendation #10:

The Judiciary should encourage settlement agreements to be conducted on court documentation, outside of the courthouse. If a tenant chooses not to be represented, that is their own choice which the Judiciary should not involve itself with. If the new settlement forms are adopted, it will be clear to all parties of any consequences if the payment arrangement is not kept.

Opposition to Recommendation #11:

There is no opposition to conducting trials remotely, however the Judiciary should begin prior to when the Moratorium will expire. However, trials should be conducted in a timely manner. The Committee proposed holding trials up to 8 weeks after the filing is made. This will incur another month of rent to become due, if the tenant does not make payment during that time.

Solution to Recommendation #11:

The Judiciary should begin holding remote trials immediately. It should not have to wait until the Moratorium on Evictions has expired. It should also allow for the entry of judgment for possession. These judgments should last until the Moratorium has expired, allowing the Landlord and/or its attorney to file the necessary certifications for the warrant of removal.

Opposition to Recommendation #12:

There is no opposition to the Judiciary improving the Harris Announcement.

Solution to Recommendation #12: N/A

Opposition to Recommendation #13:

There is no opposition to the Judiciary developing a compressive Landlord Tenant Procedures list.

Solution to Recommendation #13: N/A

Opposition to Recommendation #14:

Tenants often use the excuse that there are habitable issues in the apartment, however there is a big difference between withholding the money, and not having it. The current Marini process that the Judiciary has is very slow, and extends the amount of time before the Landlord recovers back rent. Additionally, tenants often do not cooperate when repairs are scheduled, and they cause willful damage to the apartment. Changing the rule to only require 50% of the rent to be deposited will cause many Landlord Tenant cases to become Marini defenses.

Solution to Recommendation #14:

The Judiciary should keep the rule that 100% of the rent should be deposited before a Marini case can be opened. Further, the Judiciary should focus on how to expedite this process, and should implement policies that allow for the case to be dismissed if the tenant causes delays or fails to cooperate and/or

appear on future hearings. Lastly, the timing of when the funds are released to the Landlord (pre-COVID) were approximately 4-8 weeks. The Judiciary should work to close this gap so that the funds are released to the Landlord in a timely manner.

Opposition to Recommendation #15:

There is no opposition to requiring that all base rent owed to be deposited in order for the tenant to obtain an adjournment. However, there is almost always going to be a dispute at this stage over the amount of rent due. Additionally, the Committee states that they expect this provision to be rarely invoked, which is unfortunate.

Solution to Recommendation #15:

The tenant should have to post at least 80% of the rent stated within the complaint in order to have the case adjourned. This should be a rule that is followed, and not rarely invoked as stated within the report.

Opposition to Recommendation #16:

If the Judiciary only makes the judgment for possession forms available electronically through the filing case management system, it will cause a great time delay for Landlord's and/or their attorney's to process multiple warrants.

Solution to Recommendation #16:

Certifications for judgment for possession should be available for Landlord's and/or their attorney's to file in batches, electronically. Further, it is unclear why the data on these forms would be entered by court staff. If a Landlord and/or their attorney must depend on when this staff member enters the data, there will be concerns over its accuracy and timing of submission.

Opposition to Recommendation #17:

There is no opposition to the Judiciary updating the request for a warrant of removal.

Solution to Recommendation #17: N/A

Opposition to Recommendation #18:

There is no opposition to the Judiciary amended the warrant of removal for clarity.

Solution to Recommendation #18: N/A