

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

CAVALIERS PROPERTIES, LLC	:	
	:	
v.	:	Case No. 2020 LTB 006576
	:	
JAMES SHELTON	:	

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BORGER MANAGEMENT INC.	:	
	:	
v.	:	Case No. 2020 LTB 006637
	:	
ABEL HERNANDEZ-CRUZ, <i>et al.</i>	:	

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KAREN TOWERS	:	
	:	
v.	:	Case No. 2020 LTB 006315
	:	
MATT TALLEY	:	

**ORDER SETTING HEARING**

The Court will hold a remote hearing on September 9, 2020 at 10:00 a.m. to address common questions of law relating to cases filed in the Landlord and Tenant Branch on or after March 11, 2020.

D.C. Code § 16-1501(b) imposes a moratorium on the filing of new actions for possession of rental property. The moratorium began on March 11, 2020 and continues for 60 days after the end of a public health emergency declared by the Mayor. For simplicity, the Court refers to the moratorium as the “filing moratorium,” and references to “post-March 11 cases” include cases filed on March 11. D.C. Code § 42-3505.01(k) contains a separate moratorium on evictions during any public health emergency declared by the Mayor.

On July 28, the Presiding Judge of the Civil Division issued a General Order Concerning Landlord and Tenant Cases Filed On or After March 11, 2020 (“General Order”). *See* [http://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/General-Order-LT-July-28-2020\\_0.pdf](http://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/General-Order-LT-July-28-2020_0.pdf). The General Order appointed the undersigned judge to adjudicate all common questions of law raised by the filing moratorium.

The Court is in the process of issuing orders in all cases filed on or after March 11 for landlords to show cause why the case should not be dismissed. Landlords have filed responses in a significant number of these cases that raise the following common questions of law:

1. Whether the filing moratorium violates the constitutional rights of landlords by, among other things, restricting their access to the courts, taking their property without just compensation, or impairing the obligations of contract. *See, e.g.*, Case Nos. 2020 LTB 006576, 2020 LTB 008032, 2020 LTB 006315.
2. Whether cases filed on or after March 11 should be dismissed or stayed. *See, e.g.*, Case Nos. 2020 LTB 006637, 2020 LTB 007500, 2020 LTB 007323.
3. Whether the statutory moratorium on cases filed under a statute authorizing actions for possession applies to actions for ejectment under D.C. Code §§ 16-1101 & 1104. *See, e.g.*, Case No. 2020 LTB 006315.

On September 9, 2020 at 10:00 a.m., the Court will hold a remote hearing to discuss procedures for resolving these common questions of law. The Court will also consider identifying common questions of law other than the three identified above. The Court will not hear substantive legal argument on any common questions of law at the hearing on September 9.

Parties and interested parties in cases other than the three cases in which this order is issued are welcome to participate in the hearing.

Among other things, parties and interested parties should be prepared to address whether the Court should identify a case or cases that raise specific common questions of law and ask parties and interested parties to file briefs in this case or cases. To minimize the burden on parties, interested parties, and the Court, the Court will limit the number of cases in which briefs concerning each common question of law should be filed. The Court is issuing this order in three cases that are relatively representative of the responses the Court has received, and parties and interested parties should be prepared to address whether other cases should be substituted for or added to these three cases.

With respect to briefing, the Court will adhere to the principles set forth in the General Order, including but not limited to the following principles. First, a plaintiff's response in one case may incorporate by reference that plaintiff's response in another specified case or the response of different plaintiffs in another specified case concerning a common question of law. Likewise, a defendant's response in one case may incorporate by reference that defendant's response in another specified case or the response of different defendants in another specified case concerning a common question of law. Second, in resolving a common question of law in one case, the Court will consider filings submitted in any case concerning the same question of law. Third, it is not necessary for any party or legal services provider to file a motion to intervene or a motion for leave to file an *amicus* brief in all or multiple cases involving a common question of law, and the Court discourages this practice. At the September 9 hearing, the Court will address any questions concerning the application of these principles.

In most of the post-March 11 cases, landlords have generally outlined their position in responses to the show cause orders, and parties have not filed a motion concerning any common question of law. Parties should be prepared to address whether any party intends to file a motion

(in order to brief any common question of law more fully than it did in its response to the show cause order, or for other purposes) and whether the Court should require any party to file a motion. Parties should also be prepared to address whether and when any party should file any reply brief.

Under Rule 5.1, the Attorney General of the District of Columbia has the right to intervene to defend the constitutionality of the filing moratorium, and the Attorney General may wish to address non-constitutional questions of law relating to the filing moratorium. The Court will address at the hearing the Attorney General's participation in post-March 11 cases.

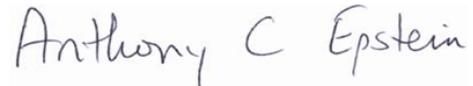
The Court invites to the hearing legal services providers and other organizations and individuals that may wish to file briefs concerning any common question of law.

If a party or interested party in another case raising a common question of law does not file a motion or a brief in a case designated by the Court for resolving that question of law, that party may file a motion or brief in the other case at any appropriate time. As stated in the General Order, post-March 11 cases have not been consolidated. Any party in another case is not collaterally estopped from raising a common question of law that was resolved in a case in which that party did not participate. However, any such party should be prepared in the other case to explain why the prior contrary ruling was wrong.

The Court is posting this order on its website. It is also distributing a copy to members of the Landlord and Tenant Working Group, which includes practitioners who regularly represent both landlords and tenants and who serve as a channel of information to other practitioners in this area.

Instructions for participating in the September 9 hearing are attached to this order. As stated above, the hearing will be conducted remotely, and no party or interested party should attend in person.

SO ORDERED.



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Anthony C. Epstein  
Judge

Date: August 27, 2020

Copies by CaseFileXpress to all e-filing parties

Copies by email to:

Fernando Amarillas  
fernando.amarillas@dc.gov

Jennifer Berger  
jennifer.berger@dc.gov

Andy Saindon  
andy.saindon@dc.gov

Mateya Kelly  
mateya.kelly@dc.gov

Micah Bluming  
micah.bluming@dc.gov

Copies by regular mail to:

James Shelton  
256 15th Street, SE  
Washington, D.C. 20003  
*Defendant*

Abel Hernandez-Cruz and Fulgencio Cruz  
1515 Ogden Street, NW, #608  
Washington, D.C. 20010  
*Defendants*

Unknown Occupants  
2832 27th Street, NE  
Washington, D.C. 20018  
*Defendants*

## INSTRUCTIONS FOR PARTICIPATING IN REMOTE HEARING

You may participate in the hearing either by video or in an audio-only format. If you intend to participate by video, you must use either Option 1, 2, or 3 below.

### Laptop/Desktop Users (Option 1):

1. Open a Web browser (preferably Google Chrome).
2. Type into your browser: <https://dccourts.webex.com/meet/ctba47>.
3. Your browser may prompt you to download the Cisco WebEx Application.
4. If you do not wish to download the application, click “Join from your browser.”
5. Enter your name and email address, then click “Next.”
6. Mute your microphone. The microphone icon will be red when it is muted.
7. Enable or disable your camera, depending on whether you would like to be seen. The camera icon will be red when the camera is disabled.
8. Click “Join Meeting.”
9. You will be placed in the lobby until the courtroom clerk gives you access to the hearing.
10. Wait with your microphone on mute until the clerk or judge asks you to un-mute.

### Laptop/Desktop Users (Option 2):

1. Open a Web browser (preferably Google Chrome).
2. Type into your browser: <https://dccourts.webex.com>.
3. Enter the Meeting ID: 129 906 2065 and hit “Enter.”
4. Click “Join Meeting.”
5. Enter your name and email address, then click “Next.”
6. Mute your microphone. The microphone icon will be red when it is muted.
7. Enable or disable your camera, depending on whether you would like to be seen. The camera icon will be red when the camera is disabled.
8. Click “Join Meeting.”
9. You will be placed in the lobby until the courtroom clerk gives you access to the hearing.
10. Wait with your microphone on mute until the clerk or judge asks you to un-mute.

### Smartphone/Tablets/iPads (Option 3):

1. Go to the App Store and download the WebEx app (Cisco WebEx Meetings).
2. Accept the Terms.
3. Click “Join Meeting.”
4. Enter the Meeting ID: 129 906 2065 in the space entitled “Meeting Number or URL.”
5. Enter your name and email address, then click “Join.”
6. Mute your microphone. The microphone icon will be red when it is muted.
7. Enable or disable your camera, depending on whether you would like to be seen. The camera icon will be red when the camera is disabled.
8. Click “Join.”
9. You will be placed in the lobby until the courtroom clerk gives you access to the hearing.
10. Wait with your microphone on mute until the clerk or judge asks you to un-mute.

**Issues with Sound**

If you are using your computer for sound and can't hear, or the sound quality is bad, disconnect from the WebEx hearing and dial in by phone using Option 4 below.

**Dial-in by Phone (Option 4):** \*This option is audio-only\*

1. Call (202) 860-2110 (local) or 1 (844) 992-4726 (toll free).
2. Enter the Meeting ID: 129 906 2065 ##.
3. Mute your microphone.
4. Wait with your microphone on mute until the clerk or judge asks you to un-mute.

**If you have any issues accessing the hearing, call Judge Epstein's chambers at  
(202) 879-7812**