



June 30, 2020

**RE: BEST PRACTICES FOR PROCESSING/FILING EVICTIONS –
POST EVICTION ACTIVITY MORATORIUMS**

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Dear Valued Client:

Barring any further extensions or postponements, the eviction moratoriums presently in place are soon to expire; the state level on July 1, 2020, and the federal level (The CARES Act) on July 25, 2020. As a preparatory and proactive measure, and in our ongoing zeal to provide clients support services through these unique times, we are providing this guidance for best practices related to nonpayment and cause evictions moving forward and post- moratorium.

Inadvertent inaccuracies and/or errors can be costly and time consuming. Innovation, mitigation and proactivity are essential as we journey forward, and we implore you to do so with great caution and mindfulness. Know that we are here for you as we, the multifamily industry, face significant challenges. Our desire is to keep you informed and aware of potential pitfalls, to educate you and to support your goals and objectives. To that end, below are some general Do's and Don'ts for considerations related to addressing delinquencies, collections, and evictions.

Do:

- Be aware that court delays will likely occur
- Continue to document all resident communications
- Ensure all tenant ledgers are updated and accurate
- Ensure all payments have been applied correctly
- Consider the status of any existing payment plans before issuing a demand notice
- Be certain of your property's status under the federal CARES Act before issuing notices
- Prepare defect-free legal non-payment demand notices:
 - ✓ **Use the appropriate non-payment notice** (3-day notice vs. 30-day notice)
 - ✓ Include only rent and applicable charges specifically defined as additional rent in the lease contract, which may include utilities, late fees, and other rentable items, barring any exemptions outlined in the moratoriums. For example, the CARES Act prohibits the assessment of late fees and other penalties during the federal moratorium period.
 - ✓ Deduct partial payments and installments accepted from the total due



- ✓ Carefully and properly calculate the notice period
- ✓ Name all leaseholders on the demand notice
- ✓ Complete the certificate of service
- Complete a Declaration/Verification Form with each new eviction sent for processing that is not subject to the CARES Act
- Use Barfield, McCain, P.A.'s exclusive, client-only, support services inclusive of the resources found at www.barfieldpa.com, which include an option for uploading files for quick and efficient processing
- Take the initiative to stay informed and be proactive throughout the moratorium transitions
- Reach out to a member of our professional team for legal guidance and complimentary support when you are unsure how to proceed

Don't:

- Serve legal/statutory non-payment notices or similar demand notices prior to the expiration of the moratoriums
- Charge inappropriate fees or penalties
- Include late fees on legal non-payment demand notices if you have accepted partial payments (assuming you can charge late fees)
- Post conflicting notices or engage in practices that violate or may appear to circumvent the moratoriums
- Engage in improper, inappropriate, or prohibited collection practices

Applicable to Properties Covered Under the CARES Act:

- Don't Serve a Three-Day Notice. The CARES Act requires a Thirty (30) Day Notice upon expiration of the moratorium
- Don't charge any late fees or penalty fees during the moratorium, or include such on the Thirty (30) Day Notice

Quick Facts Reminder – At a Glance:

	CARES Act (Federal)	Non-CARES Act (State)
When does the moratorium expire, barring any extensions?	July 25 th	July 1 st
What type of notice to pay or vacate is required?	30-Day Notice	3-Day Notice
Can you include late fees?	No	Yes (discretionary)

In closing, please remember to confirm whether your property is subject to the CARES Act and to ensure that you comply with any applicable federal or state eviction moratorium. Note, the content of this communication is provided for informational, educational and guidance purposes only and is not intended as a substitute for legal advice. We are more than happy to formally opine on a matter for our esteemed clients, upon request, which will require full disclosure of all relevant facts, a copy of the

specific file and all supporting documentation/information. Please feel free to contact our offices with any specific questions or for legal opinions and/or advice. A qualified professional will happily assist you to address your specific needs.

We hope that you find this communication helpful and welcome any questions you may have. Our highest priority remains to support you. Best wishes to you and yours for continued health and prosperity.

Warm Regards,
Your Friends and Legal Support Team at Barfield, McCain, P.A.