



March 30, 2020

Chief Justice Nathan L. Hecht
Supreme Court of Texas
Supreme Court Building
201 West 14th Street, Room 104
Austin, Texas 78701

Re: Legal aid request for temporary COVID-19 stay of post-judgment writs of garnishment, execution, and receiverships, and stay of entry of default judgments.

Dear Chief Justice Hecht:

As you know, the federal government recently made increased unemployment benefits and rebates of up to \$2,400 per couple, and \$500 per child, available in the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, and did so specifically to enable families to subsist during the crisis. Texas law permits judgment creditors to use garnishment and other post-judgment judicial procedures to seize this money, and we are seeing them increase their efforts to do so. We urge the Court to temporarily suspend garnishment and post-judgment proceedings to ensure that the funds made available by the federal government serve their intended purpose.

Request for stay of post-judgment collection from bank accounts.

Texas has a strong history of protecting individual property rights. As the Court is aware, the Texas Constitution and Texas Property Code protect basic personal property, work equipment, and homesteads from judgment creditors. Bank accounts, however, are not protected. Writs of garnishment, writs of execution, and turnover orders (receiverships) can freeze bank accounts of judgment debtors to pay creditors. These writs are typically issued *ex parte* without specific judicial approval—the judgment debtors do not become aware of them until they receive notice from their bank that their funds have been frozen.

While most courts have delayed hearings on non-essential matters, the emergency orders often fail to specify the status of post-judgment collection processes and procedures. Harris County Courts at Law appear to be the only Texas courts to expressly state that they will not issue writs of garnishment or permit receivers to freeze bank accounts without express judicial permission. See [Attached Exhibit A](#). Courts in Las Vegas, Nevada have suspended issuance of

default judgments in all civil actions, and suspended the issuance of writs of execution. *See Attached Exhibit B*. Massachusetts has also issued a ninety-day moratorium on garnishments, seizures and attachments to a debtor's wages or property. *See Attached Exhibit C*.

Allowing collection proceedings during this unprecedented emergency threatens families and the community at large. The federal funds were provided to keep our country healthy, fed, and housed, not to pay past debts. Any order from this Court would not forgive any debt but ensure that the funds are used for their intended purpose. An order temporarily staying post-judgment relief would also save lives by preventing or slowing the spread of the virus, both by minimizing government interactions with people, and by promoting sheltering in place.

IRS will deliver CARES Act money primarily via direct deposit. *See IRC § 6428(f)*. While garnishment and attachment exemptions apply to some federal benefits (e.g., Social Security), without immediate relief Texas judgment creditors can tie up bank accounts and attach the rebate funds. Because rebates are not exempt, once they are deposited into a bank account including exempt funds, the commingling means even Social Security benefits would lose their protection. To sort these matters out, families in desperate need, and financial institutions, would need to find counsel in the middle of a global pandemic. In addition, most employers and the Texas Workforce Commission also use direct deposit for paychecks and unemployment insurance checks. For many Texans during the crisis, the rebate and unemployment benefits will be their primary source of funding to pay for medical care, housing, food, and other vital expenses. The economy and health of our country must not be put at risk by those seeking to collect accounts, at least not during the very near-term covered by the Emergency Order we seek. Only state court action can prevent these funds from being taken directly from people's bank accounts during the very time when the funds are needed for survival.

Request for stay on entry of default judgments.

Many Texas civil courts and clerks' offices are currently closed or have limited hours. While filings can be made electronically, this usually requires an attorney. Seniors and others lacking internet access often dispute suits brought against them by personally going to a courthouse to see forms and file responses. The shelter-in-place orders and reasonable fear of acquiring the virus prevents or deters many Texans from going to court or finding legal counsel.

This problem is particularly acute under the special rules of procedure for debt cases in Justice Courts. *See TEX. R. CIV. P. 508 et. seq.* If the Defendant does not answer or appear within 14 calendar days of the date of service, "the judge must promptly render a default judgment." TEX. R. CIV. P. 508.3(a). Not only do people have unusual barriers to responding to a suit during this pandemic, these same barriers exist for finding counsel or requesting an appeal. The courts are specifically encouraged to enter defaults on sworn written testimony without a hearing. TEX. R. CIV. P. 508.3(c). Because default judgments may be entered without a hearing, even courts that have delayed hearings because of COVID-19 can issue default judgments. This unique situation raises due process concerns. If people lack the reasonable opportunity to respond, default judgments could issue when valid defenses exist.

While default judgments in debt collection cases are problematic for the reasons stated above, the same improper situation could exist in other civil cases as well. We are concerned

that individuals who lack access to the internet and cannot go to court without risking their health will not be able to file answers, defend on the merits, or defend against improper post-judgment relief due to shelter-in-place orders without unnecessarily placing themselves or others at risk.

We respectfully ask that the Court take resolute action to suspend default judgments and bank account garnishment during this public health and economic crisis by issuing an order pausing the issuance of writs of garnishment and attachment and orders appointing turnover receivers, and requiring courts to continue motions for default judgment. We ask that this order continue until May 8 subject to changing conditions, as provided in the Court's extant emergency orders.

We would welcome any opportunity to provide data and other information should the Court desire it.

Respectfully submitted,

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Hon. George Barnstone
County Civil Court at Law No.1



Hon. LaShawn A. Williams
County Civil Court at Law No.3

Hon. Jim F. Kovach
County Civil Court at Law No.2

Hon. Lesley Briones
County Civil Court at Law No. 4

FIRST EMERGENCY

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IN THE COUNTY CIVIL COURTS

ADMINISTRATIVE ORDER

03/20/2020

FOR HARRIS COUNTY, TEXAS

**FIRST EMERGENCY ORDER REGARDING
THE COVID-19 STATE OF DISASTER**

Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the COVID-19 pandemic and the Supreme Court of Texas and the Court of Criminal Appeals of Texas have issued four (4) Emergency Orders Regarding the COVID-19 State of Disaster, as of March 19, 2020 (the “*Supreme Court Orders*”). The Supreme Court Orders are available at www.txcourts.gov. The Supreme Court Orders state that all courts in Texas, subject only to constitutional limitations, must avoid risk to court staff, parties, attorneys, jurors, and the public. The Harris County Civil Courthouse has been closed to public access for all “non-essential cases.”

THEREFORE, given the current COVID-19 state of disaster, the severity of the risk of spreading COVID-19, and the aforementioned governing Supreme Court Orders, the Harris County Civil Courts at Law hereby **ORDER:**

1. This First Emergency Order Regarding the COVID-19 State of Disaster (this “*Order*”) shall be effective immediately and will expire on April 30, 2020, unless otherwise extended or terminated.
2. Harris County Civil Court at Law judges will continue reviewing and ruling on all filings and pleadings remotely while this Order is in effect.
3. All Oral Hearings will be reset by each Court to a date after the expiration of this Order. Parties are not to file Notices of Oral Hearings until further Order from the Courts.
4. All Motions set in April must be set on the Submission Docket for each Court. While this Order is in effect, Submission Dockets for each Court will be on both Tuesday and Friday mornings.
5. Parties may request to be moved from the Submission Docket and set for a preferential oral hearing by filing a Motion Requesting Oral Hearing and Proposed Order with the new date left blank. Such Motion must include: (i) an explanation of the need for a preferential setting prior to the expiration of this Order; (ii) the number of expected attendees participating in the hearing; and (iii) the availability of attendees to attend remotely vs. those who need to appear in person. The Court will review such motions, and in its discretion, will decide whether, when, and how (remotely vs. in-person) to schedule such hearing. The maximum number of people in the courtroom will be in compliance with the Supreme Court Orders, the Centers for Disease Control and Prevention’s guidance, and any other applicable regulations.
6. If a preferential oral hearing is granted during this emergency period, the Courts will be scheduling such hearings remotely via phone and videoconferencing, to the maximum extent possible. The Courts’ Trial Coordinators will provide additional information regarding logistics and technology requirements.
7. All jury trials will be reset to a date after expiration of this Order.
8. Non-jury trials will be rescheduled to a date after expiration of this Order, unless the Parties receive approval for a preferential setting. Please be advised that pursuant to the Supreme Courts Orders, courts may consider sworn statements as evidence, which may be applicable to certain non-jury trials such as debt

collection cases. This would eliminate the need for witnesses to appear live.

9. All proceedings related to evictions will not be held until expiration of this Order, unless, pursuant to the Supreme Court Orders, there is an imminent threat of criminal activity or physical harm to the plaintiff, plaintiff's employees, or other tenants.
10. Writs of Possession will not be issued until after the expiration of this Order, unless there is an imminent threat.
11. Court Appointed Receivers may remain active, but are directed not to freeze any bank accounts until after the expiration of this Order, unless express written approval is granted by the Court.
12. Writs of Garnishments will not be issued until after the expiration of this Order.
13. Parties are responsible for monitoring the Courts' websites and dockets applicable to their cases. Notices may not be mailed as usual during this time.
14. To the extent this Order contradicts the Local Rules, this Order applies and modifies the Local Rules for the period this Order is in effect.
15. Nothing in this Order affects the discretion and ability of each Harris County Civil Court at Law judge to further adjust and/or modify each Court's own dockets and vary this protocol on a case-by-case basis.

The Harris County Civil Courts at Law also seek to highlight several of the accommodations provided for in the Supreme Court Orders that will affect its Courts' functioning during this COVID-19 state of disaster:

- The modification and suspension of all deadlines and procedures until 30 days after the Governor's State of Emergency has been lifted (*See* 2.a. of Supreme Court First Emergency Order).
- The ability for Courts to "consider as evidence sworn statements made out of court or sworn testimony given remotely, such as by teleconferencing, videoconferencing, or other means" (*See* 2.c. of Supreme Court First Emergency Order).
- The suspension of any trial, hearing, or other proceeding, and the tolling of all deadlines, related to an action for eviction to recover possession of residential property under Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure until April 19, 2020, and the ordering that an execution of a writ of possession may not occur until after April 26, 2020. As stated above, however, all proceedings related to evictions will not be held until the expiration of this Order. Notwithstanding the foregoing, evictions on the basis of an imminent threat of criminal activity, or physical harm to the plaintiff, the plaintiff's employees, or other tenants may proceed (*See* Sections 3 & 4 of Supreme Court Fourth Emergency Order).

Any questions about this Order should be sent via email to the Courts' Trial Coordinators.

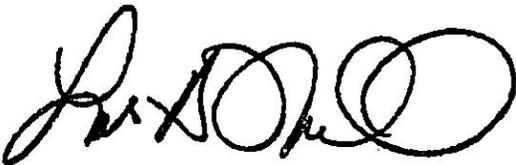
Dated: March 20, 2020



George Barnstone, Judge
Harris County Civil Court No. 1



Jim F. Kovach, Judge
Harris County Civil Court No. 2



LaShawn A. Williams, Judge
Harris County Civil Court No. 3



Lesley Briones, Judge
Harris County Civil Court No. 4

**JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA**

JUSTICE COURT
LAS VEGAS NEVADA
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**IN THE ADMINISTRATIVE MATTER
REGARDING TEMPORARY
PROCEDURES IN CRIMINAL, CIVIL,
AND TRAFFIC¹ CASES**

**AMENDED ADMINISTRATIVE
ORDER # 20-03**

WHEREAS, Local Rules of Practice for the Justice Court of Las Vegas Township, Rule 6.5 charges the Chief Judge of the Las Vegas Justice Court with various responsibilities, such as supervising the administrative business of the Las Vegas Justice Court, ensuring the quality and continuity of court services, supervising the court calendar, reassigning cases as convenience or necessity requires, assuring the court’s duties are timely and orderly performed, and otherwise facilitating the business of the Las Vegas Justice Court as well making such orders as deemed advisable relating to local court rules and procedure; and

WHEREAS, On March 12, 2020, Governor Steve Sisolak declared a state of emergency in Nevada in response to the recent outbreak of the Coronavirus Disease (COVID-19). Given the severity of the risk posed to the public by COVID-19, and after consultation with Nevada Supreme Court Chief Justice Kristina Pickering, the Chief Judge of the Las Vegas Justice Court has determined that alterations to court procedure are necessary for the protection of the community; and therefore,

IT IS HEREBY ORDERED that, effective March 17, 2020, the Las Vegas Justice Court will continue to accept filings and manage cases within the parameters set forth in this Order;

¹ As used in this Administrative Order, a “Traffic” offense is an offense that has a demerit point value of four (4) or less as determined by the Nevada Department of Motor Vehicles. Offenses with higher point values, such as DUI, are not considered Traffic Offenses under this Administrative Order.

1 1. Beginning March 19, 2020, or as soon as possible thereafter, all criminal in-custody
2 hearings, with the exception of in-custody preliminary hearings and in-custody trials, will be
3 conducted via video conferencing in courtroom 6A;

4 2. All criminal out-of-custody hearings, with the exception of preliminary hearings, will
5 be continued for a period of at least sixty (60) days. Out-of-custody preliminary hearings shall
6 be continued for a period of at least sixty (60) days based upon the department's calendar.
7 Individuals with attorneys for criminal cases are encouraged to contact their attorneys instead of
8 coming to the Court to obtain the new court dates and/or provide their attorneys with proof of
9 completion of any court-ordered requirements. Attorneys are encouraged to communicate with
10 the Court via email (preferred) or phone to obtain new court dates for these matters. A listing of
11 all emails and phone numbers will be listed on the Court's website page;

12 3. All traffic pre-trial matters shall be suspended for the next sixty (60) days;

13 4. Any person arrested on a criminal offense subject to an own-recognizance release
14 under Las Vegas Justice Court Administrative Order 18-04, will be given a return court date in
15 sixty (60) days;

16 5. Any person arrested on traffic offenses and/or warrants will be subject to release, and
17 given a return court date no sooner than May 15, 2020;

18 6. Any person who is arrested on a Community-Court bench warrant will be subject to
19 release and given a 4-week return date to appear at the Community Impact Center at 3740 Royal
20 Crest Street, Las Vegas, Nevada 89119;

21 7. Any person with an active misdemeanor bench warrant (including traffic) who
22 appears at the Customer-Service Counter shall have the warrant recalled by the Court.

23 At this time, essential case types and hearings will continue to be heard through in-person
24 appearances, although appearance by alternative means under Nevada Supreme Court Rule Part
25 IX is encouraged when possible. Essential case types and hearings include the following:

26 1. All in-custody proceedings for criminal matters;

27 2. Bail motion hearings, motions to quash bench warrants, and motions for own
28 recognizance walk-through on arrest warrants, until arrangements can be made to
hear these matters by alternative means;

- 1 3. Civil temporary or extended protection orders;
- 2 4. Unlawful Towing cases;
- 3 5. Objections to Claims of Exemption.

4 All currently scheduled non-essential Las Vegas Justice Court hearings are ordered to be
5 conducted by video or telephonic means; decided on the papers; or rescheduled unless otherwise
6 directed by a Las Vegas Justice Court Judge.

7 Small Claims trials, Small Claims motion hearings, and Small Claims examinations of
8 judgment debtor are deemed non-essential. All Small Claims trials, Small Claims motions, and
9 Small Claims examinations currently set will be continued to a future date. Notifications to
10 Small Claims litigants of the new date will be made via mail and/or email if an email address is
11 available.

12 All jury trials, civil and criminal, scheduled in Las Vegas Justice Court for the next thirty
13 (30) days will be rescheduled to a new date as the court calendar allows. No summonsed
14 prospective jurors are to appear.

15 Effective March 17, 2020, the Las Vegas Justice Court will suspend issuing Defaults on
16 all civil actions. Applications for Default Judgments in cases where a Default has already been
17 issued will still be processed.

18 Effective March 17, 2020, all deadline and default provisions contained in NRS Chapter
19 40 concerning eviction and unlawful detainer proceedings are suspended and stayed.

20 Effective March 17, 2020, the Las Vegas Justice Court will suspend issuing orders for the
21 examination of a judgment debtor.

22 Effective March 17, 2020, the Las Vegas Justice Court will suspend the issuance of all
23 Writs of Execution. Additionally, all currently issued Writs of Execution are hereby stayed until
24 April 20, 2020. Any property garnished or attached after March 17, 2020, must be released back
25 to the Judgment Debtor. Clark County Constables and Sheriff Civil Division should follow the
26 guidance in NRS 21.112 with respect to any property garnished or attached prior to March 17,
27 2020.

28 In order to practice social distancing as recommended by the Centers for Disease Control
and Prevention (CDC), Las Vegas Justice Court is encouraging the use of electronic

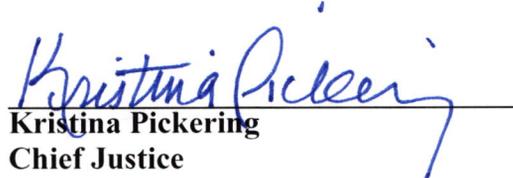
1 communication for the resolution of cases, status checks, and/or negotiations. A list of emails
2 for each department will be on the Las Vegas Justice Court's website at
3 www.lasvegasjusticecourt.us.

4 Additionally, to assist all persons unable to enter the Regional Justice Center (i.e. the
5 Courthouse) because of exposure or illness, the Court has established dedicated phone lines as
6 follows: **Criminal Division at 702-671-3201, Civil Division at 702-671-3478, and Traffic**
7 **Division at 702-671-3444** to speak to a customer-service representative for assistance in
8 rescheduling their court appearance, arranging for appearance by alternative means, or providing
9 other information based on the circumstances of the appearance.

10 **IT IS FURTHER ORDERED** that this Administrative Order shall be reviewed no later
11 than every 30 days and shall continue until modified or rescinded by a subsequent order.

12 **IT IS FURTHER ORDERED** that this Administrative Order supersedes Administrative
13 Order 20-02, and Administrative Order 20-02 is immediately rescinded.

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15 Executed this 17 day of March, 2020.

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18 **Kristina Pickering**
19 **Chief Justice**
20 **Nevada Supreme Court**

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23 **Suzan Baucum,**
24 **Chief Justice of the Peace**
25 **Las Vegas Justice Court**

Addendum to Massachusetts Secretary of State Regulation Filing Form
940 CMR 35:00, *Unfair and Deceptive Debt Collection Practices During the State of Emergency
Caused by COVID-19*

Compliance with M.G.L. c. 30A – Emergency Adoption

Infections caused by a new coronavirus—Coronavirus Disease 2019 (COVID-19)—have caused substantial economic and medical hardship for the residents of the Commonwealth. To prevent further spread of the disease, Massachusetts residents have largely been required to stay at home, and many have lost employment or income as a direct or indirect result. Those who have contracted the disease caused by COVID-19 can suffer a severe and prolonged illness and must be quarantined for a substantial period of time. The prevalence of the virus has placed an enormous strain on the Commonwealth’s medical professionals and medical facilities. Accordingly, the Governor of Massachusetts declared a State of Emergency on March 10, 2020, by means of Executive Order No. 591: Declaration of State of Emergency to Respond to COVID-19.

Under the present circumstances, certain practices by creditors and debt collectors are unfair and deceptive and violate the Massachusetts Consumer Protection Act, M.G.L. c. 93A. Pursuant to the Attorney General’s authority to issue regulations interpreting c. 93A, the Attorney General’s Office (AGO) adopts and issues the following regulations, 940 CMR 35:00, *Unfair and Deceptive Debt Collection Practices During the State of Emergency Caused by COVID-19*. Because the economic and medical crisis faced by Massachusetts residents is acute and continues to escalate, the AGO issues these regulations on an emergency basis. The AGO finds that the immediate amendment of 940 CMR 35:00 is necessary for the preservation of the public health, safety and general welfare, and that observance of the requirements of notice and a public hearing set forth in M.G.L. c. 30A, sec. 2, would be contrary to the public interest.

940 CMR 35:00: Unfair and Deceptive Debt Collection Practices During the State of Emergency Caused by COVID-19

35.01 Authority, Purpose and Scope

(1) Authority: 940 CMR 35.00 is issued pursuant to M.G.L. c. 30A, §§ 2 and 3, and M.G.L. c. 93A, sec. 2.

(2) Purpose and Scope: The purpose of 940 CMR 35.00 is to provide emergency regulations to protect consumers from unfair and deceptive debt collection practices during the State of Emergency declared by the Governor of Massachusetts on March 10, 2020 pursuant to Executive Order No. 591: Declaration of State of Emergency to Respond to COVID-19.

35.02 Definitions

“Collect,” “collection,” or “collecting” shall refer to any means, communication, or attempt to obtain payment on a debt or other past due balance owed or alleged to be owed.

“Collection Lawsuit” means any legal proceeding, including but not limited to civil actions, statements of small claims and supplementary process actions, commenced in any court for the purpose of collecting any debt or other past due balance owed or alleged to be owed.

“Communication” or “Communicating” as used herein shall share the same meaning as defined in 940 CMR 7.03.

“Creditor” as used herein shall share the same meaning as defined in 940 CMR 7.03. For the avoidance of doubt, the term creditor shall include debt collectors as defined herein.

“Debt” as used herein shall share the same meaning as defined in 940 CMR 7.03.

“Debtor” as used herein shall share the same meaning as defined in 940 CMR 7.03.

“Debt collector” means any person or business whose principal purpose is the collection of a debt, or who regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted to be owed or due another. The term debt collector shall also include any person who buys or acquires debt that is in default at the time of purchase or acquisition and who seeks to collect such debt. The term debt collector shall include a creditor who, in the process of collecting his own debt, uses any name other than his own which would indicate that a third person is collecting or attempting to collect the debt. The term debt collector shall also include a person in a business the principal purpose of which is the enforcement of security interests. Debt collector shall not include:

- (a) an officer or employee of a creditor that is not itself a debt collector, while, in the name of such creditor, collecting debts for such creditor;

- (b) a person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for a person to whom it is so related or affiliated and if the principal business of the person is not the collection of a debt;
- (c) an officer or employee of the United States or a state of the United States to the extent that collecting or attempting to collect a debt is in the performance of his official duty;
- (d) a person while serving or attempting to serve legal process on another person in connection with the judicial enforcement of a debt;
- (e) a nonprofit organization which, at the request of a consumer, performs bona fide consumer credit counseling and assists the consumer in the liquidation of debts by receiving payments from the consumer and distributing the amounts to creditors; and
- (f) a person collecting or attempting to collect a debt owed or due or asserted to be owed or due another to the extent the activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by the person; (iii) concerns a debt which was not in default at the time it was obtained by the person; or (iv) concerns a debt obtained by the person as a secured party in a commercial credit transaction.

“State of Emergency Period” shall refer to the time from one business day following the effective date of these regulations, through thirty days following the lifting of the state of emergency so declared by the Governor, or his or her designee.

35.03: Prohibitions on Debt Collection Activity with Regard to All Creditors, Including Debt Collectors

- (1) For the ninety (90) days following the effective date of this regulation or until the State of Emergency Period expires, whichever occurs first, it is an unfair or deceptive act or practice for any creditor, including a debt collector, to:
 - (a) initiate, file, or threaten to file any new collection lawsuit;
 - (b) initiate, threaten to initiate, or act upon any legal or equitable remedy for the garnishment, seizure, attachment, or withholding of wages, earnings, property or funds for the payment of a debt to a creditor;
 - (c) initiate, threaten to initiate, or act upon any legal or equitable remedy for the repossession of any vehicle;
 - (d) apply for, cause to be served, enforce, or threaten to apply for, cause to be served or enforce any capias warrant;

- (e) visit or threaten to visit the household of a debtor at any time;
- (f) visit or threaten to visit the place of employment of a debtor at any time; and
- (g) confront or communicate in person with a debtor regarding the collection of a debt in any public place at any time.

(2) Paragraph (1)(a) through (g), inclusive, of this Section shall not apply to any attempt to collect a debt which is, or is alleged to be, owing as a result of a loan secured by a mortgage on real property, or to any attempt to collect a debt that is, or is alleged to be, owing by a tenant to an owner, as those terms are defined by 940 CMR 3:01.

(3) Paragraph (1)(e) of this Section shall not apply to telephone, gas, and electric utility companies regulated by M.G.L. c. 164 and the Department of Public Utilities or the Department of Telecommunications and Cable.

35.04: Prohibition on Debt Collection Telephone Calls with Regard to Debt Collectors Only

(1) For the ninety (90) days following the effective date of this regulation or until the State of Emergency Period expires, whichever occurs first, it shall be an unfair or deceptive act or practice for any debt collector to initiate a communication with any debtor via telephone, either in person or by recorded audio message to the debtor's residence, cellular telephone, or other telephone number provided by the debtor as his or her personal telephone number, provided that a debt collector shall not be deemed to have initiated a communication with a debtor if the communication by the debt collector is in response to a request made by the debtor for said communication.

(2) Paragraph (1) of this section shall not apply to communications initiated solely for the purpose of informing a debtor of a rescheduled court appearance date or discussing a mutually convenient date for a rescheduled court appearance.

(3) Paragraph (1) of this section shall not apply to (a) any attempt to collect a debt which is, or is alleged to be, owing as a result of a loan secured by a mortgage on real property; or (b) any attempt to collect a debt that is, or is alleged to be, owing by a tenant to an owner, as those terms are defined by 940 CMR 3:01.

35.05: Relation to Other Law and Regulations

(1) 940 CMR 35.00 does not exempt any person from complying with existing laws or rules of professional conduct with respect to debt collection practices. 940 CMR 35.00 is not intended to supersede or in any way limit rights and protections provided to consumers under 114.6 CMR 13.00, the Health Safety Net Eligible Services Regulations, and state and federal foreclosure laws. To the extent that any provision of 940 CMR 35.00 is specifically inconsistent with the Massachusetts Rules of Professional Conduct, as currently appearing in Supreme Judicial Court Rule 3:07 and then only to the extent of the inconsistency, 940 CMR 35:00 is not applicable.

(2) This emergency regulation is intended to supplement 940 CMR 7.00. To the extent that any provision of 940 CMR 35.00 is determined to be specifically inconsistent with any provision of 940 CMR 7.00, such provision of 940 CMR 35.00 shall temporarily replace the provisions of 940 CMR 7.00 during the State of Emergency Period.