

What Will SE  
Actions Look Like  
2 Weeks From  
Now?

Predicting the Future

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Big Assumption: Just like today.

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Still basically applicable:

<https://civil.sog.unc.edu/summary-ejectment-in-the-time-of-covid-part-2-the-cdc-order-and-eo-171/>

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Does it matter if a  
LL is asking for  
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Does it matter if a  
LL is asking for  
\$\$\$? NO.



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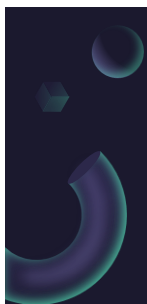
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When is a LL in a SE action  
required to provide an affidavit  
stating that the LL has given the  
T a blank Declaration form?



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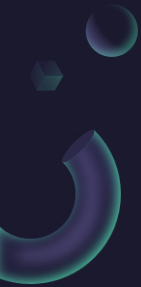
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When is a LL in a SE action required to provide an affidavit stating that the LL has given the T a blank Declaration form?  
In EVERY SINGLE SE action.

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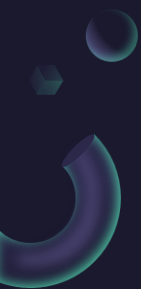
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Is a LL required to notify the court of receipt of a Declaration form if a SE action is based on criminal activity?

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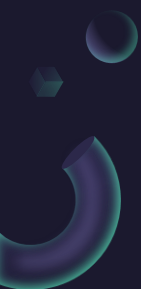
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Is a LL required to notify the court of receipt of a Declaration form if a SE action is based on criminal activity? Yes. The requirement of notification applies in EVERY SINGLE SE action

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What is the consequence of a T delivering a Declaration to a LL?

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What is the consequence of a T delivering a Declaration to a LL? The action does not proceed UNLESS . . .

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. . . the LL files a written Response .

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... the LL files a written Response .

What will that Response say?

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What will that Response say?

This SE action should go forward because my request for possession is based on permissible grounds.

OR

This SE action should go forward because the Declaration filed by the T is not valid.

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This SE action should go forward because my request for possession is based on permissible grounds.

What are permissible grounds?

Is a separate hearing required?

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Nothing in this Order precludes evictions based on a tenant, lessee, or resident:

- (1) Engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

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This SE action should go forward because the Declaration filed by the T is not valid.

No guidance provided on critically important issues like:

- Which party has burden of proof?
- What is the legal standard?
- What degree of specificity is required in Response?
- What is the scope of a hearing on validity of Declaration?

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LL filing a response triggers requirement that court hold hearing to determine whether SE action should go forward.

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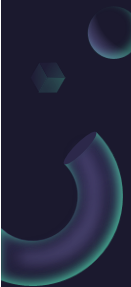
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No time limits for Declaration or Response.  
Be mindful of need for continuance if notice of either was insufficient.

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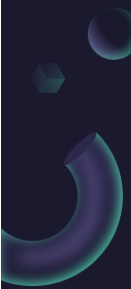
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Guiding Principles in Hearing These Cases  
**Be Consistent!**  
**Watch out for bias!**

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Things to Mention in Case There's Time

- HOPE applicants/LL refusals????
- Post-Judgment Declaration
- Constitutionality?
- EO 171 independent of CDC Order



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