

## Greensboro Landlords Association

Meeting Minutes  
September 12th, 2019

### Opening:

The monthly meeting of the Greensboro Landlords Association was called to order at 6:30 on September 12th, 2019 at the Greensboro Regional Realtors Association by President, Dennis Frohlich.

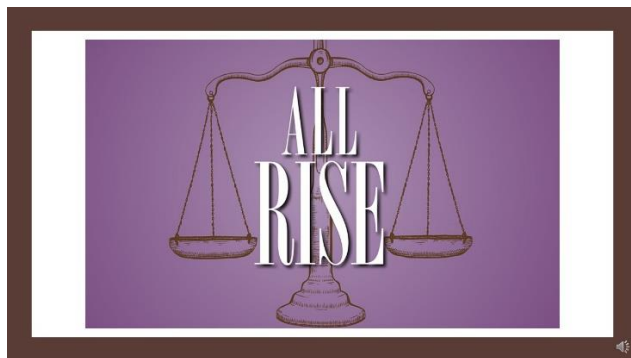
### Attendance:

33 Members were recorded by 3<sup>rd</sup> Party Vendor, Jennifer Dille with TESS, LLC.

### General Announcements by Dennis Frohlich:

- Recognized our guests and thanked everyone for coming out tonight!
- Like to announce a new venture with HomeVestors. We are encouraging members to come to their “Deal Maker Sessions” the first Tuesday of each month at the Airport Market from 6:30 – 9:00 pm. It is free to anyone. You will learn about properties for sale before they are listed anywhere else.
- Coffee Chats: Tuesday the 17<sup>th</sup> at Amoroso’s Bakery off Guilford College Rd from 4:15 – 5:00. Great discussions and yummy treats!
- If you are interested in joining the GLA Board for 2020, please see me or Jenn after the meeting. We have a couple openings for the upcoming year. Also if interested in nominating someone for President or VP, please discuss with the person first and then let a Board Member know. Elections are in November.
- Upcoming Meetings: October meeting is with City Officials as our Follow-Up session with the Mayor on the New Housing Inspection Ordinance. November is “Alternative Revenue Source” with Spectrum and Resolve Partners.
- Associate/Sponsors Time: If we have any Associate or Sponsor members who would like to stand up, please introduce yourself now. None, OK.
- Now before we get started, does anyone have any questions or announcements. Ok, again none.

**Now on to our Meeting with our speaker...The Honorable Anthony G. Thomas** (Lights went down, Metallica’s “Enter Sandman” started playing and the following popped up on the overhead screens:



Judge Thomas made to the front amid a flurry of fans clamoring to get his autograph or just touch his sleeve!

**Judge Thomas:** Oh, I officially hate you guys now! I hope none of you end up in my courtroom. (Lots of laughs!)

Well, back in the Spring I was approached by Jeff Sims about talking to you all. I ignored his emails as long as I could but when they didn't stop coming I finally gave in with my small requests:

1# of M&M's separated by color in separate containers

2 Mountain Dew's with red Solo Cups and shaved ice (which is not here by the way)

Lights dimmed with Metallica's "Enter Sandman" on

A small writing desk for autographs after the meeting with 2 Sharpies

And a white robe with my initial "AGT" in gold. (Not sure where my robe ended up!)

And Jeff said they would provide all!

Then Jenn or Jennifer - not sure what she wants to be called - emails last week and I learned that I had the option to get out of this meeting. I let her know that I had missed my flu shot, had stopped washing my hands and was hanging out in the babies room everyday at my son's day care and had this constant cough.

Her response was "Well, stay healthy and we will see you next week."

So I hastily put together this small PowerPoint presentation.

Please note: On a serious note, none of this can be taken or used as legal advice nor be used in any courtroom. This is just my personal opinion of what I see and hear in the courtroom.

So with further much anticipation, let's get this started.



## SUMMARY EJECTMENT

~~LANDLORD'S: GREEDY OR JUST MEAN~~  
~~MAKING APARTMENTS GREAT AGAIN~~  
GOOD QUESTIONS & VAGUE ANSWERS



ANTHONY G. THOMAS  
MAGISTRATE JUDGE  
18<sup>TH</sup> JUDICIAL DISTRICT



## PROCEDURAL AND EVIDENTIARY ISSUES

(AKA: THINGS LANDLORD'S DO WRONG BUT ARE MOSTLY OVERLOOKED BY THE JUDGE)



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### COMPLAINT FORM

- Sign the Complaint Form
  - Technically not signing the Complaint form is grounds for dismissal
- Address under Section #2
  - Location Sheriff will execute Writ of Possession or “Padlock Order”
  - Ensure that address corresponds with Tenant that your seeking possession, otherwise Sheriff will not Padlock premises.
- Complaint should list the actual owner, not just agent information and not just “Agent for Owner of Record”
- Updated Complaint form is to be used, form available @nccourts.org website



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## SERVICE MEMBERS CIVIL RELIEF ACT AFFIDAVIT

- Must be filed with every Summary Ejectment
- Landlord must provide Court some evidence of their inquiry (or is it enquiry) regarding Tenant's military status
- Court is barred from proceeding on case if no SCRA affidavit is completed
  - Landlord to search SCRA website to determine defendant's military status
  - Results of website search are to be attached to submitted SCRA form
  - If Landlord unable to determine status from website then Landlord to complete Section 2b of SCRA form:
    - Landlord to provide facts supporting statement that Tenant does not fall under protections afforded military members under SCRA



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## PRESENTATION BY PLAINTIFF

### ADDRESSING THE COURT

- Specific to me, please refer to me as "Your Majesty" and bow or kneel appropriately
- It is ok to notify Judge during docket call if seeking dismissal or continuance
- Please conduct yourself in civil manner, often have Plaintiff's become argumentative w/tenants during presentation of defendant defense
  - Objections should have some legal basis to them, not solely because you disagree w/defendant
- Contacting City Code Enforcement and is not basis of claim for "retaliatory action" by Tenant/Defendant



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## PLAINTIFF'S EVIDENCE

### LEASE

- Generally good idea to bring copy of lease, signed by Tenant
- Testimonial evidence concerning lease is acceptable, however any challenges by Tenant could be addressed in lease
  - Written evidence signed by Tenant more persuasive than testimony

### LEDGER

- Up-to-Date ledger should be available to Judge upon request
- Should reflect most recent transactions
- Should not include court costs in Monies Owed or Rent-in-Arrears



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## TENANT'S RIGHTS & REMEDIES

### IMPLIED WARRANTY OF HABITABILITY (IWH)

- “Tenants are legally entitled to a rental that meets basic structural, health, and safety standards. It must also be in good repair pursuant to the landlord's implied warranty of habitability, an implied right in every written or oral residential lease.”
- In NC, tenant is to pay rent in timely fashion and according to lease
  - NC law states tenant cannot act unilaterally and withhold rent for violation of IWH, *however* courts often grant exemption to Tenant if serious violation



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## TENANT'S RIGHTS & REMEDIES

### RENT ABATEMENT

- Landlord is also required to maintain/repair appliances that the landlord has provided. This includes plumbing, heating and air conditioning units, refrigerators, and stoves, etc.
- If Landlord fails to maintain/repair appliances then Tenant has right to sue under action for Rent Abatement
- Rent Abatement - "when the landlord fails to make necessary repairs, NC law allows tenant to seek money damages. To obtain abatement an action must be filed with court for the reduced value of the rental property.



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## TENANT'S RIGHTS & REMEDIES

### RENT ABATEMENT Con't

- Notice of defects or needed repairs can be oral or in writing
- If notice is in writing, Tenant can also show that the landlord knew of the needed repairs in one or more of the following ways:
  1. Written notice to landlord;
  2. Landlord came to the premises and saw the defects;
  3. Defects existed when Tenant moved in and the landlord promised to repair them; or
  4. Premises inspected by the local building inspector and who sent a notice of needed repairs to landlord



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## SECURITY DEPOSIT

“Under North Carolina law, the landlord may apply the tenant’s security deposit for the following expenses:

- Unpaid rent; damages caused by the tenant; damages that are not the result of reasonable normal use; the cost of removal and storage of the tenant’s property; and court costs if the landlord sues to evict a tenant.
- The landlord may not apply the Security Deposit to any other use. A landlord may charge a reasonable fee or deposit for pets”



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## SECURITY DEPOSIT CON'T

- Landlord has to return the security deposit within thirty (30) days of termination or itemize damages and mail remaining security deposit balance to tenant.
- If damages cannot be determined within thirty (30) days, landlord has to send interim accounting to tenant within thirty (30) days, and final accounting within sixty (60) days.
- Tenant is generally not responsible for damages resulting from reasonable normal use. For example, after five years in a unit the walls may need repainting. In contrast, holes in the walls and broken fixtures are not considered normal use and the tenant may be responsible for those damages.



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## ABANDONED PROPERTY

- If tenant abandons property (\$750.00 value or less) or fails to remove property at execution of writ of possession, landlord may deliver the property to a nonprofit organization. Landlord must post a notice containing the name and address of the nonprofit for 30 days where rent is received, and send notice to tenant.
- Personal property is considered abandoned 10 days after lawful repossession of the property and formal written notice is posted inside and outside of the property, and there has been no communication from the tenant.



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## NORTH CAROLINA FAIR HOUSING ACT (FHA)

- State and Federal fair housing laws prohibit discrimination in housing on the basis of race, color, sex, religion, national origin, handicap, or familial status. To discriminate against a person on the basis of his or her membership in one of these protected categories is against the law.
- We have had cases recently that have been removed to Federal Court on basis of alleged violations by Landlords of the Fair Housing Act laws.



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## SELF-HELP EVICTION

- Self-Help Evictions: If a tenant is unlawfully evicted, the landlord is liable for the actual damages incurred to the tenant. (NCGS § 42-25.9)
- If landlord or agent seizes possession of or interferes with a tenant's access to a tenant's personal property in any manner not in accordance with NC General Statutes, the tenant shall be entitled to recover possession of personal property or compensation for the value of the personal property, and, in any action brought by a tenant or household member under this Article, the landlord shall be liable to the tenant or household member for actual damages



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## UNFAIR & DECEPTIVE TRADE PRACTICES

- Definition: A practice is “unfair when it offends established public policy as well as when the practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers or amounts to an inequitable assertion of power or position.”
- A finding of unfair and deceptive practice provides for mandatory recovery of treble (triple) damages if the court determines there is a violation of the statute



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## UNFAIR & DECEPTIVE TRADE PRACTICES

- Actions or inactions by Landlord that may violate the UDTPA include:
- 1. Failing to maintain habitable property, while demanding rent.
  - NC Courts have held that collecting rent with knowledge of the violation (water leaking in one of the bedrooms and living room) constituted unfair practice and thus a violation.
- 2. Attempting to force a tenant out without filing for eviction by cutting off water and electricity (also a violation of Ejectment of Residential Tenants Act);
- 3. Renting a property that you only have an option to purchase; and
- 4. Attempting to collect money you are not entitled to, or using means prohibited by the North Carolina Debt Collections Act.

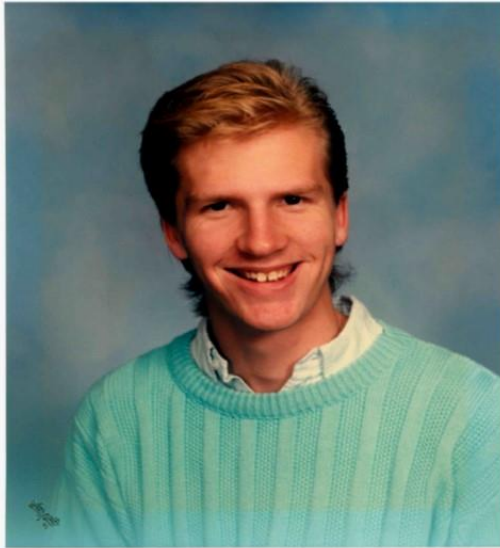


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## ON A PERSONAL, NON-JUDICIAL NOTE.....



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Anthony G. Thomas

Long before Judicial Days...

Circa 1984



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## SUMMARY EJECTMENTS BY THE NUMBERS....

- According to Princeton University study:
  - Triad - one of the highest eviction rates in the US
    - Greensboro - 1st in NC for Evictions
    - Greensboro - 7th amongst large cities in US
    - High Point - 23rd amongst large cities in US
- In 2016, Landlords filed 16,600 summary ejectments
  - In UNCG study more than half people interviewed experienced homelessness
  - Average of 26 households a day facing eviction



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## SUMMARY EJECTMENTS....

- Recently in my court I had a few cases that I would like to highlight:
  - Case #1
    - Landlord files for Summary Ejectment of long term tenant
    - Upon questioning LL, the basis of case was a \$14 shortfall for late fees not rent in arrears
      - So, LL paid \$96 to file summary ejectment
      - \$30 to have Sheriff serve Tenant
      - Tenant's rental history now reflects legal action filed against them
      - Judge, clerk and Sheriff time well spent?
      - Impression of Landlord who would file for \$14?
      - Case was dismissed



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## SUMMARY EJECTMENTS....

- Case #2
  - Landlord files for Summary Ejectment of long term tenant
  - Upon questioning LL, the basis of case was a \$84,000 rent in arrears
    - LL purchased property from Owner turned Tenant to develop
    - Agreement at purchase was prior Owner to lease property
    - \$700/Month agreed upon rate
    - LL did not request nor did Tenant proffer rent for 10 years
    - LL sued for summary ejectment
    - Summary Ejectment granted



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## SUMMARY EJECTMENTS....

- Case #3
  - Landlord files for Summary Ejectment of tenant
  - Upon questioning LL, the basis of case was 1 month rent in arrears
    - LL proceeds (thru attorney) to detail case against Tenant
    - Tenant claims to have tendered August rent on August 2nd
    - Manager testified that Tenant did attempt to pay via money order
    - LL preferred online portal payments
    - Tenant was senior citizen, on disability & not savvy enough to use online portal, she had paid via money orders for years prior
    - Manager sought rent in arrears, court appearance fees, court costs
    - Case dismissed



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## SUMMARY EJECTMENTS....

- Evictions filed solely for court costs after Tenant paid rent in arrears
- LL filed eviction for dog in house with no pet deposit
  - Dog had been in house for 2 years prior to action being filed
  - Tenant stated LL knew of dog with no requests to remove dog
  - Tenant had made complaint to Code Enforcement just prior to filing
- Seeking summary ejectment of tenant for non-payment of rent who had gas leak in apartment
  - Tenant complained to LL about high gas bill and LL did not believe Tenant
  - After considerable effort and Legal Aid involvement, LL fixed leak



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## COURT OF LAW VS. COURT OF EQUITY



- Strict application of the law does not always yield equitable results
- \$14 case
- Money Order v. Online Portal case
- Compounding arrears with miscellaneous fees
- What is ultimate goal?
  1. Solely Removal of Tenant?
  2. Payment of Arrears?
  3. Maintain relationship/tenancy?



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# THANK YOU

**Magistrate Judge Anthony G. Thomas**  
**18<sup>th</sup> Judicial District**

**Following is paperwork the Small Claims Court wanted me to hand out.**

## SMALL CLAIMS INSTRUCTIONS

### GENERAL INFORMATION

- ⚖️ Small Claims filing limit is \$10,000.00
- ⚖️ \$96.00 per case payable to the Clerk of Superior Court
- ⚖️ Acceptable payment methods: cash, credit/debit (\$1 fee plus 2.25% charge), money order, business checks or bank certified checks. **No personal checks**
- ⚖️ \$30.00 per defendant payable to the Guilford County Sheriff's Department
- ⚖️ Sheriff accepts: cash, money order, business checks or bank certified checks. **No debit/credit or personal checks**
- ⚖️ Forms must be submitted in **blue** or **black** ink only.
- ⚖️ Servicemembers Civil Relief Act Affidavit is now required to be filed. One per defendant (only if an individual). You can either get the form notarized or we can affirm you here. You will need your **License** or **ID**. Form must be turned in with filings or before the court date.
- ⚖️ You must call ahead for a court date, time and location to be written on the Magistrate Summonses. The phone number is on the back of the instruction sheet at the bottom. No cash or debit/credit will be accepted when dropping off claims.
- ⚖️ Please review the instructions on the backside of complaints carefully. The clerks in this office **CANNOT ASSIST** you in completing these forms or give any legal advice.
- ⚖️ We suggest filings are brought in prior to 4:30 pm Mon-Fri.

-OVER-

## SMALL CLAIMS INSTRUCTIONS

### Summary Ejectments

- ⚖ You **MUST** fill out the description of premises box with the address of the defendant.
- ⚖ You **MUST** provide a stamped envelope addressed to the Defendant(s). A copy of the complaint and summons is mailed to the Defendant(s) in addition to being served by the Deputy Sheriff.
- ⚖ You **MUST** provide a stamped self-addressed envelope when mailing your forms to the Clerk's office to receive notice of your court date.
- ⚖ Copies: For One Defendant, **1** original and **3** copies of the complaint and **1** original and **3** copies of magistrate summons. For Two Defendants, **1** original and **5** copies of the complaints and **1** original and **5** copies of magistrate summons. All copies must have a front and backside.

### Money Owed and Possession of Personal Property

- ⚖ Copies: For One Defendant, **1** original and **2** copies of complaint and **1** original and **2** copies of magistrate summons. For Two Defendants, **1** original and **3** copies of complaints and **1** original and **3** copies of magistrate summons. All copies must have a front and backside.
- ⚖ You **MUST** provide a stamped self-addressed envelope when mailing your forms to the Clerk's office to receive notice of your court date.

Clerk of Superior Court (Small Claims)

P.O. Box 3008  
Greensboro, NC 27402  
336-412-7373

P.O. Box 2434  
High Point, NC 27261  
336-822-6703-

-OVER-

**OK. Now does anyone want to brave asking me a question or can I get out of here, go see my family and never come back here?**

**Great I am out of here! Lose my number and remember nothing said tonight can be used as legal advise or in the courtrooms – especially mine!**

**Closing with Dennis Frohlich:**

Thank you Judge Thomas for a very informative meeting! Well, he is gone already. Guess he is hurrying to get home with special M&M's to share with his kids.

Coffee Chat Tuesday the 17<sup>th</sup>.

Remember next month is the Mayor and the City of Greensboro's Neighborhood Development Dept to provide follow-up on the new Housing Inspection Ordinance passed at the end of 2018.

Thanks and have a great evening!

Meeting was adjourned at 7:40 by President, Dennis Frohlich.

**Minutes submitted by: Jennifer Dille with TESS, LLC**