Litigation Alert: The New and Reduced Authority of the Housing Court Program: What Does It Mean for Your Next Commercial Eviction?

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A recent decision by the Minnesota Court of Appeals effects cases related to real property that do not involve residential rental housing (such as commercial evictions or evictions following foreclosure). The decision removes these cases from the Housing Calendar Consolidation Program and, thus, the Housing Court Rules no longer apply to such cases.[1]

In response to the decision, Chief Judge of Hennepin County District Court Ivy S. Bernhardson issued a Standing Order re Certain Real Property-Related Civil Cases. This standing order mandates that all future cases that are related to real property but that do not involve residential rental housing be filed as **civil** cases with the district court. Upon filing, the cases will be assigned to housing court referees and proceed along the usual course. Cases that have already been filed with the housing court will remain in housing court, unless one of the parties already made a timely request for removal to district court.

What does this mean for your next commercial eviction? While the standing order may not appear to make much of a difference on its face—after all, the case will be assigned to a housing court referee and the same procedure still applies—the classification of your commercial eviction as a "civil action" unlocks the ability to remove the case from the referee and to have the case heard by a district court judge. This remedy was previously unavailable to commercial landlords and tenants whose cases were subject to the Housing Court Calendar Program. No similar standing order has yet been made in Ramsey County, where commercial actions are still to be filed in housing court.

There are a number of reasons why a commercial tenant or landlord may want to remove an eviction proceeding to the district court. There are also a number of reasons why such a move might not be in your best interest. Contact your Gray Plant Mooty attorney to discuss whether such a removal would be a wise strategy decision in your case. The Gray Plant Mooty real estate litigation team is informed and experienced in this recent change and is positioned to assist you with any dispute you have.

Other effects of the decision and standing order are still being realized. Gray Plant Mooty will continue to update you as this new change in commercial tenant law develops.

[1] *See County of Hennepin v. 6131 Colfax Ln.*, File No. 27-CV-HC-16-5725, 2018 WL 577742 (Minn. Ct. App. Jan. 29, 2018).