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Media Inquiries: Judy Pino, 202-869-5218

NCLA Intervenes in Case on Behalf of MO Housing Providers Harmed by CDC Eviction Moratorium

KC Tenants v. David M. Byrn, et al.

Washington, DC (October 28, 2020) – The nationwide halt in residential evictions issued by the Centers for Disease Control and Prevention (CDC) last month is closing the courtroom doors to housing providers struggling to retake possession of their own properties. The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, has filed a [Motion to Intervene](#) and a [response in opposition to the plaintiff’s motion for preliminary injunction](#) in the U.S. District Court for the Western District of Missouri in the case of *KC Tenants v. David M. Byrn*. KC Tenants, a nonprofit supporting Kansas City area tenants, is challenging a Jackson County, MO judicial administrative order, arguing that it violates the CDC’s eviction moratorium for Kansas City to continue operating its landlord-tenant courts.

The CDC order, which claims the temporary halt in residential evictions is necessary to “prevent the further spread of COVID-19,” denies housing providers the right to access state courts to retake possession of their own property by the only lawful means available to them even if a tenant stopped paying rent *before* the pandemic.

In response, the 16th Judicial Circuit for Jackson County issued an Administrative Order setting out steps that permit aggrieved housing providers to bring eviction actions for reasons other than non-payment of rent, to start eviction processes, and to challenge any tenant declarations made pursuant to the CDC’s order as false.

As a proposed intervenor-defendant, NCLA argues that KC Tenants has improperly asked the Court to enter an injunction that would permit enforcement of CDC’s unlawful order, thus violating NCLA clients’ constitutional rights. NCLA clients Hella Shriver, James Gorham, and at least 14 members of the National Association of Residential Property Managers in Missouri have been denied the ability to invoke processes laid down by Missouri law for retaking possession of their homes. NCLA’s representation gives a voice to Missouri housing providers who are sidelined and suffering significant harm due to unpaid rent and monthly maintenance costs.

NCLA has been at the forefront of the legal [fight against](#) the CDC’s unlawful order that—among other problems—violates the right to access the courts, exceeds limits on the Supremacy Clause, raises serious non-delegation doctrine concerns, and implicates anti-commandeering principles and precedents.

CDC has not identified any statute that permits it to halt evictions or to preempt state landlord-tenant laws. The W.D. of Missouri federal court should grant NCLA’s motion to intervene, permit NCLA’s clients to file a brief in opposition to KC Tenants’ request for preliminary injunction, and allow them to participate in oral argument to prove that the lawless CDC order exceeds the agency’s statutory authority and violates the U.S. Constitution.

NCLA released the following statements:

“NCLA’s clients are innocent housing providers stuck with delinquent tenants. We live in unprecedented times. But the difficulties we face do not justify denying housing providers their fundamental constitutional rights or

the ability to vindicate those rights in a court of law. We look forward to the Court’s ruling on our motion to intervene so Hella Shriver, James Gorham, and similarly situated housing providers, can be heard and ultimately have their day in court.”

– **Kara Rollins, Litigation Counsel, NCLA**

“The Jackson County court system’s Administrative Order puts reasonable steps in place to maintain a functioning landlord-tenant court while following the CDC moratorium. The Administrative Order should be upheld, but the federal court should also take this opportunity to strike down the CDC moratorium as unconstitutional and devoid of statutory authority.”

– **Mark Chenoweth, Executive Director and General Counsel, NCLA**

For more information visit the case summary page [here](#).

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar Philip Hamburger to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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