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NCLA Seeks Injunction Pending Appeal to Eleventh Circuit Court in Eviction Moratorium Case

Brown, Rondeau, Krausz, Jones and Nat'l Apt. Ass'n v. U.S. Centers for Disease Control and Prevention, et al.

Washington, DC (November 13, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, has filed a [motion for injunction pending appeal](#) in the U.S. Court of Appeals for the Eleventh Circuit in the case of *Brown, et al. v. CDC, et al.* NCLA is seeking to reverse an erroneous [decision](#) by the U.S. District Court for the Northern District of Georgia denying property owners' motion for preliminary injunction.

The district court erred because it placed an impossible burden of proof on property owners in contradiction to other courts across the country, which have recognized that being deprived of your residential property is in fact an intrinsically irreparable injury. In its appeal, NCLA also argues that CDC's nationwide moratorium order has no statutory or regulatory basis. No provision of law grants the agency the broad, unilateral authority to void state landlord-tenant laws. If the district court's reading of CDC's authority were to stand, the agency could take virtually any action overturning state law as long as it asserted a public-health benefit.

NCLA's original lawsuit challenges the authority of CDC to impose the [“Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19”](#) order, which claims stopping residential evictions will help contain COVID-19. Because the act of Congress upon which CDC relies does not actually confer on the agency the power to halt evictions or to preempt state landlord-tenant laws, the nationwide eviction moratorium order violates the U.S. Constitution and should be enjoined and declared void. NCLA's lawsuit also argues that CDC had deprived property owners of their constitutional due process rights to have access to state courts.

At a minimum, there is a substantial question as to whether the CDC order may permissibly stop all 50 states from applying their own legal regimes governing real property. And unless the Eleventh Circuit acts, the property owners will continue to suffer the irreparable deprivation of their real property, as well as the unrecoverable loss of all economic value of their properties.

NCLA released the following statements:

“CDC's unprecedented order stakes out an untenable position that CDC can change any law in any state as long as it merely invokes the threat of COVID-19. The Eleventh Circuit must step in and make clear that the Constitution still applies—even in a pandemic.”

— **Caleb Kruckenberg, Litigation Counsel, NCLA**

“Incredibly, the district court held that no deprivation of due process occurred here because the eviction moratorium expires on Dec. 31. You’ve probably heard the saying that ‘justice delayed is justice denied.’ There is no rule that authorizes federal agencies to temporarily deprive housing providers of due process rights. What the CDC has done here is unlawful, and the Eleventh Circuit needs to intervene immediately to put a stop to it.”

— **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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