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**NCLA Appeals to Stop the Radical Intrusion on State Courts Caused by CDC’s Eviction Moratorium**

*Rick Brown, et al. v. Secretary Alex Azar, et al.*

**Washington, DC (December 21, 2020)** –Using the pandemic emergency as an excuse, the Centers for Disease Control and Prevention (CDC), a part of the U.S. Department of Health and Human Services, has issued a nationwide eviction moratorium that far exceeds the constitutional limits of its authority and the agency’s expertise. Today, the New Civil Liberties Alliance filed its [opening brief](#) in its appeal to the U.S. Court of Appeals for the Eleventh Circuit on behalf of Rick Brown of Winchester, Virginia and other housing providers who are suing over CDC’s moratorium order. The U.S. District Court for the Northern District of Georgia declined to preliminarily block the order, and NCLA sought intervention by the Court of Appeals. The sweeping order suspends *state* law under the premise that doing so was “necessary” to control the COVID-19 pandemic. NCLA argues that times of crisis are when constitutional limits are needed the most.

In the case, *Rick Brown, et al. v. Secretary Alex Azar, et al.*, CDC’s radical intrusion into state courts has deprived Americans across the country of their constitutional right to access the courts to seek to regain possession of their properties from delinquent tenants. The public’s interest, especially in a time of need, favors adherence to the rule of law and respecting basic limits on an agency’s power.

CDC’s effort to seize control of state law must be rejected for three basic reasons: First, the CDC Order vastly exceeds CDC’s limited grant of authority to take “necessary” action to prevent the spread of disease in controlled ways concerning infected and diseased people and effects. Second, CDC has never presented any evidence that its attempt to close the courthouse doors across the country is a necessary step in stopping the spread of disease. Third, the Order violates the basic constitutional guarantee of access to the courts.

A preliminary injunction is necessary to prevent irreparable harm to the Plaintiffs NCLA represents in this case.

**NCLA released the following statements:**

“The district court blessed CDC’s unprecedented effort to overrule the legislatures of all 50 states and lock the doors to the courthouse for millions of people. The Court of Appeals must preserve constitutional order and set this right.”

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

“It appears that Congress may pass and the President may sign an extension of CDC’s Order. But the Congress has no more power than CDC to commandeer state officials and violate the constitutional rights of citizens by closing the courthouse doors to them.”

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

## **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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