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NCLA Files Class-Action Lawsuit to Put an End to CDC’s Lawless Nationwide Eviction Moratorium

Mossman, et al. v. U.S. Centers for Disease Control and Prevention, et al.

Washington, DC (March 18, 2021) – The laws of all fifty states provide the remedy of eviction through state processes to retake possession of a home you have rented out. But a national eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in 2020 to “prevent” the spread of COVID-19 denies Plaintiffs the only lawful means available to them to evict a delinquent tenant—access to the courts. Today, the New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed a [class-action lawsuit](#) in the U.S. District Court for the Northern District of Iowa on behalf of Asa Mossman of Cedar Rapids, Iowa, and many other blameless housing providers left powerless against the CDC’s lawless [order](#).

NCLA argues that agencies have no inherent power to make law, and nothing in the relevant statutes or regulations gives CDC the power to issue an eviction moratorium order. Two federal courts in less than one week have agreed that CDC’s order is invalid. Last Wednesday the U.S. District Court for the Northern District of Ohio [ruled](#) in [Skyworks, LTD., et al., v. Centers for Disease Control and Prevention, et al.](#) that the nationwide moratorium exceeded the agency’s statutory authority. And earlier this week, the Western District of Tennessee [ruled](#) similarly in the case of [Tiger Lily, LLC, et al. v. United States Department of Housing and Urban Development, et al.](#) NCLA had filed amicus briefs in both cases.

CDC has yet to meet its obligation of showing that state actions were inadequate or that its eviction moratorium was necessary to stop the spread of COVID-19 as required by law. Nevertheless, the CDC order declares that anyone who violates the order faces up to \$500,000 in fines or jail time, and housing providers like Plaintiffs here cannot pursue evictions. But if they default and lose their property, the banks can still evict! These Plaintiffs, most of whom are mom-and-pop housing providers, have been unexpectedly targeted by unelected agency bureaucrats, with no authority over housing or state courts, using a rule that only gives CDC authority to regulate sick livestock. The complaint also argues that the order violates the U.S. Constitution because CDC has not identified any act of Congress that confers upon it the power to halt evictions or preempt state landlord-tenant laws. The CDC’s order also impermissibly commandeers state courts and state officers to apply, enforce, and implement an unconstitutional federal law.

By denying access to the state courts, the CDC order exceeds Constitutional limits on the federal government and violates the rights of tens of thousands of Americans based on the say-so of an unelected bureaucrat. NCLA is hopeful, especially given the recent outcomes in Ohio and Tennessee, that the Northern District of Iowa will follow suit and reject the CDC’s effort to seize control of state law on such an insupportable basis.

NCLA released the following statements:

“Mr. Mossman and the other housing providers in this suit are being ordered by CDC to provide homes for free with no ability to recover their property when tenants fail to pay their contractual obligations. There is little to no chance any of these housing providers, who pay their mortgages and property taxes, keep up with the maintenance and provide a livable space, will recover their losses. We file this action on behalf of these

plaintiffs but also for the entire class of blameless housing providers who have been irreparably injured by the CDC order.”

— **John Vecchione, NCLA Senior Litigation Counsel**

“CDC insists that its order does not hurt housing providers because they can eventually seek back rent from their tenants in state court. But the longer this moratorium continues, the less hope that plaintiffs have of ever seeing a dime of what they’re owed. Yet they must continue to pay their mortgages and property taxes on rental properties that have not produced any rental income in six months to a year.”

— **Jared McClain, NCLA Litigation Counsel**

“CDC has unlawfully extended its nationwide eviction moratorium to March 31, and it seems bound and determined to extend this gross violation of housing providers’ civil liberties even further. Despite three separate federal courts now ruling the agency’s conduct out of bounds, CDC continues its misconduct. If state or federal authorities want to keep people from being evicted, they need to provide them rental assistance. Imposing a fake quarantine that vastly exceeds CDC’s power is hogwash. This lawsuit provides the court with an opportunity to end this civil liberties nightmare once and for all.”

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

For more information about this case visit [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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