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NCLA Presents Oral Argument Before 11th Cir. Court of Appeals in CDC Eviction Moratorium Lawsuit

Rick Brown, et al. v. Secretary Xavier Becerra, et al.

Washington, DC (May 14, 2021) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group will [present](#) oral argument today before the U.S. Court of Appeals for the Eleventh Circuit in *Rick Brown, et al. v. Secretary Xavier Becerra, et al.* NCLA was the first to challenge the Centers for Disease Control and Prevention’s (CDC) nationwide eviction moratorium, initially [issued](#) in September 2020, which all but forces housing providers across the country to give unlimited free housing to their tenants.

Building on NCLA’s work in this case, numerous other suits have been filed against CDC. Several federal courts have now set aside CDC’s order as unlawful, declaring that the nationwide moratorium exceeded the agency’s statutory authority. But the Eleventh Circuit Court’s ruling could be the first to have nationwide effect. The CDC is headquartered in Atlanta, GA, where the Eleventh Circuit is also based. That means the court has jurisdiction to enjoin the CDC nationally from enforcing or extending the eviction order anywhere. Such a ruling would restore the rights of tens of thousands of housing providers across the country.

NCLA argues, in this case and in its class-action lawsuit [Mossman v. CDC](#), that agencies have no inherent power to make law, and that nothing in the relevant statutes gives CDC the power to issue an eviction moratorium order. Additionally, CDC has unconstitutionally deprived property owners of their rights to access state courts. In March 2021, the U.S. District Court for the Northern District of Ohio accepted similar arguments in [Skyworks, LTD., et al. v. Centers for Disease Control and Prevention, et al.](#) and [held](#) that the nationwide moratorium was beyond the scope of CDC’s power. In the same month, the Western District of Tennessee [ruled](#) comparably in the case [Tiger Lily, LLC, et al. v. United States Department of Housing and Urban Development, et al.](#) NCLA filed amicus briefs in both of those cases. And just last week, the U.S. District Court for the District of Columbia likewise [set aside](#) CDC’s order.

CDC has asserted power it does not have to abrogate the property and other legal rights of tens of thousands of American housing providers. As a result, these law-abiding citizens have been locked out of their own properties and have incurred significant economic damages, including thousands of dollars in unpaid rent, as well as monthly maintenance costs, and the lost opportunity to rent or use the properties at fair-market value. A preliminary injunction would halt CDC’s lawless actions and protect the housing providers’ interests against further irreparable harm.

Caleb Kruckenberg, NCLA Litigation Counsel, will present oral argument via teleconference today at approximately 10:00 am EDT. You may view the proceedings [here](#).

NCLA released the following statement:

“CDC has struck out into an area about which it has no expertise and issued a sweeping order suspending state law under the premise that doing so was ‘necessary’ to control the COVID-19 pandemic. The entire class of

people whom CDC has shut out of the courtroom, not by law, but by unilateral decree, must have their rights restored. The Eleventh Circuit should reverse the district court’s ruling and enter a preliminary injunction.”

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

For more information visit the case 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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