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## **NCLA Cries Foul on CFPB Final Rule that Doubles Down on Unlawful Eviction Moratorium Policy**

*The Property Management Connection, LLC, et al. v. Dave Uejio, Consumer Financial Protection Bureau, et al.*

**Washington, DC (May 3, 2021)** – The Consumer Financial Protection Bureau (CFPB) is [requiring](#) that anyone who seeks to collect unpaid residential rent, including property management companies, real estate attorneys, or housing providers, must now lie to tenants who have been sued for unpaid rent and are subject to eviction.

Today the New Civil Liberties Alliance filed a [lawsuit](#) and motion for [temporary restraining order](#) against CFPB in the U.S. District Court for the Middle District of Tennessee for doubling down on the unlawful [Halt Order](#) issued by the Centers for Disease Control and Prevention (CDC) last September. NCLA represents The Property Management Connection LLC, attorney Gordon Schoeffler, and the National Association of Residential Property Managers. Each Plaintiff suffered significant economic damages after CDC issued its Order, which forced property owners to provide habitable housing for tenants while continuing to pay maintenance, utilities, and other expenses, but prevented them from requiring tenants to pay their rent.

Undeterred by numerous challenges and court rejections across the country against the Halt Order, today CFPB implemented an Interim Final Rule, *Debt Collection Practices in Connection With the Global COVID-19 Pandemic*, without public comment. The CFPB rule is an unlawful agency action in violation of the Administrative Procedure Act (APA) because it requires disclosures that are not required under the Fair Debt Collection Practices Act. The FDCPA generally prohibits debt collectors from using “any false, deceptive, or misleading representations or means in connection with the collection of any debt.” The CFPB rule also violates the First Amendment of the Constitution by requiring false speech. The rule requires Plaintiffs to falsely inform tenants, in writing, that they are entitled to protection under the Halt Order, when, in fact, the Order has been deemed unenforceable by multiple judges.

In March 2021, the Halt Order was successfully challenged twice in the Sixth Circuit. In [Skyworks, Ltd. v. Centers for Disease Control & Prevention](#), the District Court for the Northern District of Ohio “determine[d] that the [CDC’s Halt Order] exceeded the agency’s statutory authority” and was, therefore, invalid. Two days later, the District Court for the Western District of Tennessee likewise held in [Tiger Lily, LLC, et al. v. HUD, et al.](#) that the Halt Order was beyond the scope of CDC’s power and unenforceable in the Western District of Tennessee. NCLA had successfully filed *amicus* briefs in both cases.

The Plaintiffs in this case seek a declaratory judgment setting aside and invalidating the CFPB rule and an emergency temporary restraining order preventing CFPB from enforcing its rule pending further action in the case.

**NCLA released the following statements:**

“CFPB is supposed to protect consumers against false and misleading statements, not force housing providers to falsely inform tenants that they don’t have any obligation to pay their rent. This rushed and sloppy rule is just a political statement masquerading as the law.”

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

“It’s bad enough that the CDC decided to exceed its statutory powers to deny access to courts. To have another agency, the CFPB, chime in and purport to force others to tell people the CDC Order is legal and available takes the lawlessness on display here to another level.”

— **John Vecchione, Senior 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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