



**FOR IMMEDIATE RELEASE**

**Media Inquiries:** [Judy Pino](#), 202-869-5218

**CDC Seeks to Prevent Ruling on Merits of the Eviction Moratorium, NCLA Opposes Motion to Dismiss**

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

**Washington, DC (September 28, 2021)** – For nearly a year, the Centers for Disease Control and Prevention (CDC) imposed an unlawful nationwide eviction moratorium on the nation’s home providers. The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, has fought the CDC Order since day one, filing two lawsuits: *Brown, et al. v. CDC, et al.* and *Mossman, et al. v. CDC, et al.* Yet after all the CDC’s legal gamesmanship and claims to nearly limitless authority, the eviction moratorium ended with barely a whimper. CDC now claims that the *Mossman* case is moot just because the agency strategically and voluntarily decided to dismiss its appeal in a separate case that it lost in another jurisdiction—the U.S. District Court for District of Columbia. NCLA has filed a [brief](#) opposing Defendants’ motion to dismiss in *Mossman*, arguing that CDC has not repudiated its Order nor disclaimed the authority it had invoked for its foray into state housing policy.

The stop-start nature of the eviction moratorium not only left home providers like NCLA’s clients uncertain when they would regain their constitutional and property rights, but it also restricted their ability to challenge the Order in court. Because the Order was perpetually on the verge of expiring, Defendants repeatedly sought and received delays in briefing, and courts across the country hesitated to rule on the merits of a soon-to-expire order. CDC would then reissue the Order just as it was set to expire, or in one case, just after it expired, further compounding the Plaintiffs’ injuries. Plaintiffs have lost millions of dollars in uncollected rents while expending huge sums for property maintenance, utilities, and other costs. Additionally, many Plaintiffs have seen the value of their properties depreciate under the threat that CDC will impose a lawless eviction moratorium again in the future.

On August 26, 2021, the U.S. Supreme Court crippled the eviction moratorium when it [removed a stay](#) on an [injunction](#) entered by the U.S. District Court for D.C. The Court’s “careful review of that record ma[de] clear” that the home providers “[we]re *virtually certain* to succeed on the merits of their argument that the CDC has exceeded its authority.” That opinion further stated, “The applicants not only have a substantial likelihood of success on the merits—it is difficult to imagine them losing.” Plaintiffs filed their [motion for summary judgment](#) four days after the Supreme Court’s order. Now Defendants claim mootness.

Even though Defendants decided to abandon their appeal of their district court loss, that strategic litigation maneuver does not unambiguously terminate the legal issues presented in this case, nor does it deprive the U.S. District Court for the Northern District of Iowa—the court reviewing *Mossman*—of its authority to issue the Plaintiffs a judgment declaring that Defendants cannot engage in this unlawful conduct again. Absent a judgment declaring the CDC Order unlawful and enjoining its enforcement as well as the issuance of any similar future order, all Plaintiffs will continue to be injured by a permanent reduction in their properties’ value and the ever-present threat that Defendants may deprive them of their access to those properties and to landlord-tenant courts.

**NCLA released the following statements:**

“CDC and other Defendants have bobbed and weaved for a year to avoid decisions on the merits for the lawless residential eviction moratorium. The fact that they have lost in one district court ought to mean judgment is entered *against* them here if they don’t contest that judgment. Our clients have stated that the very fact that CDC and the Government still assert they have the power to close the courts to every home provider in the country when someone is staying in their home without compensating them drives down property values. That is real damage, and our clients need a court order to stop it. The case is not moot, and we fully expect it to go forward.”

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

“Back in June, Justice Kavanaugh let CDC’s eviction moratorium stay in place because he thought allowing the government four weeks to wind down its program would somehow be more orderly. CDC has done its best since then to prove him wrong. The agency has abused the courts to drag out its unlawful order for as long as possible while still seeking to avoid an adverse ruling. Our clients are asking the court to enter judgment to prevent CDC from continuing its lawless expansion of power.”

— **Jared McClain, 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.

###