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## **NCLA Asks U.S. District Court for New Jersey to Stop Governor’s Abuse of Emergency Powers**

*Matthew Johnson v. Governor Philip D. Murphy, et al.*

**Washington, DC (June 2, 2020)** – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed the [complaint](#), *Matthew Johnson v. Philip D. Murphy, et al.*, today against Governor Murphy in the U.S. District Court for the District of New Jersey, challenging [Executive Order No. 128](#). The order, which violates federal constitutional law, state constitutional law, state contract law and state landlord-tenant law, purports to allow tenants to use their security deposits to offset rent or back rent. Regardless of the governor’s good intentions, the order unlawfully singles out residential landlords and cancels the major security measure they use to protect their property.

NCLA represents Mr. Johnson, the owner of a small rental property in Cherry Hill, New Jersey. Like many other New Jersey landlords, he has fallen victim to the governor’s unconstitutional order and risks losing the security deposit for which he rightfully contracted. Without a security deposit to insure against damage caused to the property during the tenancy, he will be forced to cover the cost of such damage out of his own pocket, or he could be forced to bring a costly and time-consuming small-claims action against his tenant. If Mr. Johnson should try to adhere to the terms of the voluntarily signed leasehold contract, under the new rules, he would be subject to criminal penalties.

None of the “certain emergency powers” invoked by Governor Murphy grants him the authority to alter the terms of residential leases. Even during the state of emergency, duly enacted laws and private contracts cannot be nullified by unilateral executive actions. Moreover, Executive Order No. 128, in a time of nationwide economic insecurity, undermines the very purpose of the recently enacted Civilian Defense and Disaster Control Act, which is to prevent damage and destruction of citizens’ property, including Mr. Johnson’s condominium.

In violation of the U.S. Constitution, New Jersey’s Constitution, and statutory laws, the order is clearly picking winners and losers in duly established contractual relations between tenants and landlords. NCLA is asking the court to declare the order void and to vindicate Mr. Johnson’s right to freedom of contract, due process, and equal protection of the laws.

### **NCLA released the following statements:**

“Rightly or wrongly, federal courts often defer to state legislative actions that seem to interfere with freedom of contract. But here we have a governor invoking laws that do not apply to the situation to justify violating contracts that are completely lawful. There is no basis for any court to defer to this unconstitutional executive order.”

—**Kara Rollins, Litigation Counsel, NCLA**

“This is a straightforward case of administrative overreach. New Jersey law gives the Governor specific emergency powers that have to do with things like vaccines, hospitals, and the State militia. Residential lease contracts have nothing to do with the powers Governor Murphy invoked here.”

— **Jared McClain, Staff Counsel, NCLA**

“Private property rights are enshrined in the Federal and New Jersey Constitutions for a reason—because they are foundational to a free society. Governor Murphy does not have the power to nullify those rights, nor to rewrite contracts at his whim.”

—**Harriet Hageman, Senior Litigation 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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