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## **In Mixed Ruling for NCLA Clients, District Judge Says CFPB Rule Does Not Apply in Sixth Circuit**

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

**Washington, DC (May 17, 2021)** – The New Civil Liberties Alliance is celebrating a partial win for housing providers in Kentucky, Michigan, Ohio, and Tennessee. The U.S. District Court for the Middle District of Tennessee [indicated](#) after hours on Friday that an Interim Final Rule issued by the Consumer Financial Protection Bureau (CFPB) does not apply in the Sixth Circuit according to its own terms. The decision effectively shields housing providers in these states who, under the CFPB Rule, otherwise would face liability if they failed to make false and misleading statements to delinquent tenants facing eviction.

NCLA, a nonpartisan, nonprofit civil rights group, represents The Property Management Connection, attorney Gordon Schoeffler, and the National Association of Residential Property Managers in a challenge against CFPB’s [Interim Final Rule](#), *Debt Collection Practices in Connection With the Global COVID-19 Pandemic*. The Rule, implemented May 3, 2021, without public comment, required that anyone who seeks to collect unpaid residential rent must falsely inform tenants subject to eviction, in writing, that they are entitled to protection under the unlawful nationwide [Halt Order](#) on evictions issued by the Centers for Disease Control and Prevention (CDC).

On September 1, 2020, CDC issued its nationwide eviction moratorium. Since then, the Halt Order has been successfully challenged across the country, notably in the Sixth Circuit case [Tiger Lily, LLC, et al. v. HUD, et al.](#), in which NCLA filed an *amicus* brief. CFPB disclaimed the Sixth Circuit’s *Tiger Lily* decision as not being “a binding Circuit decision on the merits of the case.” But the Sixth Circuit did not equivocate; a panel of judges held in a published opinion that Congress did not “grant the CDC the power it claims” underlying the Halt Order. In its decision, the U.S. District Court for the Middle District of Tennessee said *Tiger Lily* is binding precedent. Hence, neither the CDC Halt Order nor the CFPB Rule applies to the Plaintiffs or to any other person in the four states that comprise the Sixth Circuit.

Under the CDC Order, housing providers cannot obtain evictions, but if they default on their mortgages and lose their properties, the banks can evict! CFPB put these housing providers in a further impossible position when the agency violated their First Amendment rights by ordering them to make false and inaccurate disclosures about the invalid Halt Order. CFPB chose to ignore the dilemma facing housing providers, but NCLA commends the District Court for righting this wrong in the Sixth Circuit. NCLA will move for summary judgment and seek a final declaratory ruling, to protect all housing providers from the CFPB Rule.

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

“While CFPB has insisted that housing providers within the Sixth Circuit are bound to make false statements to tenants about an invalid eviction moratorium, the District Court resoundingly rejected that idea and declared the Rule inapplicable within this jurisdiction. The District Court also encouraged other courts to follow its lead in rejecting CFPB’s lawless power grab.”

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

“CFPB cannot make people lie about the unlawful actions of the CDC in the Sixth Circuit. Soon, if agencies are held to their lawful scope, it won’t be able to do so in the other circuits either.”

— **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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