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NCLA Files Joint Amicus Brief Asking Tenn. Federal Court to Stop CDC Eviction Moratorium Order

Tiger Lily, LLC, et al. v. United States Department of Housing and Urban Development, et al.

Washington, DC (October 28, 2020) – In a joint [amicus brief](#) filed in the U.S. District Court for the Western District of Tennessee, the New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, condemned an eviction moratorium order imposed by the Centers for Disease Control and Prevention (CDC) last month to purportedly prevent the spread of COVID-19.

The *amici curiae* (NCLA, the Beacon Center of Tennessee, the National Apartment Association, and the National Association of Residential Property Managers) emphasize two critical points in the case of *Tiger Lily, LLC, et al. v. United States Department of Housing and Urban Development, et al.* First, CDC's Order is a breathtaking arrogation of power by an administrative agency under a flimsy pretense of protecting public health. CDC has cited *no* evidence that any infection has arisen because of an eviction proceeding. Second, the irreparable harm suffered by the plaintiffs will devastate the nationwide rental market. These serious, irreparable consequences must be mitigated by a preliminary injunction against the CDC Order in this case.

The plaintiffs are a diverse group of individuals and business organizations that own or manage residential property located in Tennessee. All have been harmed by CDC's unlawful and unconstitutional order that established a nationwide eviction moratorium and stripped the housing providers of their constitutional right to access the courts. CDC has tried to do something that should be unthinkable in our federal system—a mere administrative agency has unilaterally *criminalized* the use of state court processes in all 50 states.

Local housing providers in Tennessee are essentially trapped in a one-sided agreement with no remedy. They will never be able to recover their losses from the tenants or anyone else. As a consequence, it will devastate the nationwide rental market. Property owners will lose their livelihoods, and some will lose their own homes. Employees will lose their jobs. And rental properties across the country will be taken off the market. The effects will ripple out to all tenants—making rental housing scarce and more expensive.

All these economic harms spring from a fundamentally unlawful government action. As NCLA emphasized in the [Brown, Rondeau, Krausz, Jones and the National Apartment Association v. CDC](#) case, the order violates the U.S. Constitution because the CDC has not identified any act of Congress that confers upon it the power to halt evictions or preempt state landlord-tenant law. Furthermore, the order deprives property owners of their constitutional right to access state court proceedings.

Amici insist that CDC has no business setting housing policy, so they ask the Court to grant Plaintiffs' motion and to enter a preliminary injunction against the CDC Order. The Court should enjoin CDC's unlawful order to stop a looming economic collapse in the rental market from spiraling out of control under the pretext of protecting public health.

NCLA released the following statement:

“As this case illustrates, CDC’s lawless order has put housing providers all over the country in an impossible situation. It is truly terrifying for a federal administrative agency to threaten people with jail time should they seek to access state court processes to reclaim possession of their own property.”

— **Caleb Kruckenberg, NCLA Litigation Counsel**

For more information visit case summary 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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