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NCLA Files for Summary Judgment in Class-Action Lawsuit Against CDC’s Eviction Moratorium

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

Washington, DC (August 31, 2021) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, has moved for [summary judgment](#) in *Mossman v. CDC*, the class-action lawsuit challenging the Centers for Disease Control and Prevention’s (CDC) eviction moratorium order. The case, currently pending review in the U.S. District Court for the Northern District of Iowa, disputes the authority of CDC to impose the [“Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19.”](#) NCLA represents blameless housing providers left powerless by CDC’s lawless order.

On August 26, 2021, the U.S. Supreme Court [removed a stay](#) on an [injunction](#) that had been entered in a D.C. District Court. In doing so on facts nearly identical to those in *Mossman*, the Court stated, “careful review of that record makes clear that the applicants are virtually certain to succeed on the merits of their argument that the CDC has exceeded its authority.” That opinion further suggested, “The applicants not only have a substantial likelihood of success on the merits—it is difficult to imagine them losing.” President Biden admitted the lack of lawful authority for the order back on August 3, saying, “The bulk of the constitutional scholarship says that [a new order is] not likely to pass constitutional muster.” The Supreme Court’s ruling and the Biden administration’s concession make clear—at last—that CDC lacked any authority to issue the unlawful order.

Plaintiffs have been irreparably harmed by CDC’s ill-conceived foray into national housing policy. CDC’s eviction moratorium prevented thousands of members of the National Apartment Association and National Association of Residential Property Managers from using lawful eviction procedures for over a year, which will cost the members millions of dollars in unrecoverable losses. NCLA’s clients will be unlikely to obtain any economic relief or damages from their tenants, because, by definition, any tenant presenting an appropriate attestation will be insolvent. Many Plaintiffs will never recover from the economic stress caused by the eviction moratorium.

The CDC order is without a statutory or regulatory basis. Before the Supreme Court invalidated the moratorium, several courts had already determined that the CDC order was unlawful for a host of reasons. The issue is so clear, the injury to the Plaintiffs so egregious, and the binding precedent so great, that the Court should promptly grant summary judgment on the merits and declare the eviction moratorium unlawful.

NCLA released the following statements:

“Our clients have been denied access to their property, refused any remedy for non-payment of rent, and have been frozen out of court so their legitimate claims could not even be heard. This lawless act was done without Congressional authorization by a bureaucrat who pays no price for issuing this order. Enough is enough. It has to stop now with a judicial order that prevents CDC and the other defendants from ever pulling this stunt again.”
— **John Vecchione, Senior Litigation Counsel, NCLA**

“The case against CDC was clear from the day the agency issued its moratorium just ahead of last Labor Day. Now, almost a year later to the date, we ask the district court to follow the Supreme Court’s lead, declare the order unlawful, and enjoin its enforcement nationwide.”

— **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.

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