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The CDC's Eviction Moratorium and the Pending Lawsuit to Stop It

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Two weeks ago, on September 2, 2020, the Centers for Disease Control (“CDC”) relied on little-known statutory powers to issue a temporary moratorium for most residential evictions, with a stated goal of reducing the risk of transmission of COVID-19. We provided an explanation of the CDC’s order in an earlier [alert](#).

Last week, a lawsuit was filed in federal court, on behalf of a landlord, seeking to halt or overturn the Order.

The New Civil Liberties Alliance has filed a lawsuit in Georgia – where the CDC is located – on behalf of a landlord from Virginia. It presents a wide range of theories, including violation of the Administrative Procedures Act in creating the Order, violation of the landlord’s right of access to the court system, violation of the Supremacy Clause of the United States Constitution, and a claim under the Contracts Clause of the Constitution. There is also claims for jurisdiction-stripping which raises constitutional anti-commandeering principles, non-delegation doctrine arguments, and that the Order is an unconstitutional suspension of state law.

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