



## Ohio federal judge rules against CDC's eviction moratorium

March 25, 2021

On March 10, 2021, Judge Philip Calabrese of the Northern District of Ohio ruled that Congress had not authorized the Centers for Disease Control and Prevention (CDC) to adopt a nationwide eviction moratorium for COVID-19. In the decision, the court held that the moratorium exceeded the agency's statutory authority provided in Section 361 of the Public Health Service Act, 42 U.S.C. § 264(a). See *Skyworks, Ltd. v. Centers for Disease Control & Prevention*, Case No. 5:20-cv-2407, 2021 WL 911720 (N.D. Ohio March 10, 2021).

Last fall, the CDC and the U.S. Department of Health and Human Services (HHS) issued an order temporarily limiting the ability of landlords of residential properties to evict any "covered person" for nonpayment of rent during the period of September 4, 2020, through December 31, 2020. The CDC order was extended multiple times and currently lasts through March 2021. Importantly, the moratorium does not forgive the tenants' missed payments, fees, penalties or interest, it just pauses the eviction process.

In *Skyworks*, a group of landlords, property managers and a trade association challenged whether the CDC had the necessary Congressional authority to adopt a nationwide eviction moratorium. In its analysis, the court concluded that "[t]he most natural and logical reading of the statute" confirms that the eviction moratorium exceeds the CDC's statutory authority. The court also rejected the argument that Congress ratified the moratorium. Having determined that the CDC exceeded its statutory authority, the court granted the plaintiffs' motion for a declaratory judgment but

denied the requested injunctive relief.

Despite the ruling, the Department of Justice (DOJ) has issued a statement declaring that it respectfully disagrees with the Skyworks decision. In an effort to narrow the scope of the decision, the DOJ argued that “the decision applies only to the particular plaintiffs in that case. It does not prohibit the application of the CDC’s eviction moratorium to other parties. For other landlords who rent to covered persons, the CDC’s eviction moratorium remains in effect.”

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