

COURT RULINGS ON THE FEDERAL EVICTION MORATORIUM

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A federal district court judge in Texas recently ruled the CDC federal eviction moratorium unconstitutional. The U.S. Department of Justice Civil Division [announced](#) on February 27, 2021 that the federal government appealed the harmful decision.

Here are some facts about this and other rulings by federal district court judges related to the federal eviction moratorium.

THE CDC'S FEDERAL EVICTION MORATORIUM REMAINS IN EFFECT. THE DISTRICT COURT RULING IN [TERKEL V. CDC](#) ONLY APPLIES TO THE PARTICULAR PLAINTIFFS IN THE SUIT, AND HAS NO IMPACT ON OTHER RENTERS.

- The case was not brought as a class action. As such, the district court decision is not binding on any other landlords, tenants, or courts.
- The impact of this case on other courts is limited to its ability to persuade. Because of the court's deeply flawed reasoning, we do not expect that other courts will be persuaded by this view.
- The court cannot and should not issue a nationwide injunction. Any court injunction issued in this case would only apply to the parties of the case.

THE COURT DECISION IN [TERKEL V. CDC](#) IS DEEPLY FLAWED

- In the court's analysis of the Commerce Clause, it ignores Supreme Court precedent which found that the regulation of the rental real estate market "unquestionably" falls within the scope of the federal government's authority.
- The court fails to consider the emergency public health powers under which the CDC issued the eviction moratorium.

OF THE FOUR FEDERAL DISTRICT COURTS THAT HAVE ISSUED DECISIONS RELATING TO THE CDC'S EVICTION MORATORIUM, THREE HAVE REJECTED CLAIMS BY LANDLORDS THAT THE MORATORIUM WAS UNLAWFUL OR UNCONSTITUTIONAL

- In [Brown v. Azar](#) (Northern District of Georgia), the judge denied an injunction because the landlords who brought the suit failed to show they were substantially likely to succeed on that claim. The judge held that the CDC's authority in this case is clear and unambiguous.
- The judge in [Chambliss Enterprises LLC v. Redfield](#) (Western District of Louisiana) stated that the "plain text of the statute is unambiguous," and that the CDC's eviction moratorium "is well supported and falls firmly within the scope of its authority." The judge also directly contradicts the rationale in the Texas case, pointing to a prior Supreme Court ruling ([Russell v. United States](#)) that held that regulation of the rental real estate market "unquestionably" falls within the scope of the federal government's authority under the Commerce Clause.
- In [KBW Investment Properties v. Azar](#) (Southern District of Ohio), the judge denied a request for a temporary restraining order, allowing the moratorium to continue to be in effect.

The CDC eviction moratorium provides vital protections for struggling renters during the pandemic, and is an essential public health measure. Evictions put lives at [risk](#) and [strain](#) our already overstretched public

health systems. When our collective health depends on an ability to stay in our home, we all have a stake in ensuring that tens of millions of renters don't lose theirs.

According to the Census Bureau, nearly one in five renters - disproportionately Black and Latino renters - are behind on their rent. Experts estimate that these households owe over \$50 billion in rent and utilities arrears. Congress approved \$25 billion in emergency rental assistance and will soon vote on providing another \$20 billion for this purpose. States and localities need time to get these funds to renters and landlords, to eliminate rent arrears and provide housing stability during the pandemic. Without federal intervention to uphold the eviction moratorium until rental assistance is distributed, tens of millions of people could lose their homes during the pandemic.

President Biden and his administration must vigorously defend, extend, strengthen and enforce the CDC order.

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