

CDC Eviction Moratorium Held Invalid - Again

The Centers for Disease Control and Prevention ("CDC") issued an order in September 2020 implementing a broad eviction moratorium that applied to all rental properties nationwide ("CDC Order"). Since then, Congress granted a 30-day extension of the CDC Order and the agency itself extended the CDC Order twice. The current CDC Order is set to expire on June 30, 2021.

The most recent version of the CDC Order carries with it criminal penalties for violations of the order and applies to all rental properties nationwide (an expansion of the original order under the Trump Administration, which only applied to rental properties that participated in federal assistance programs or were subject to federally-backed loans). The CDC Order has been inconsistently applied by local state courts and is criticized by both supporters of landlords as well as those supporting the intended purpose of the order.

This afternoon, the United States District Court for the District of Columbia issued a Memorandum and Order holding that the Public Health Service Act does not grant the CDC the legal authority to impose a nationwide eviction moratorium. As a result, the Court vacated the CDC Order. Currently, the Department of Justice indicated it would file a notice of appeal on the D.C. Circuit's decision to vacate the CDC moratorium and ask for a stay of the decision until the appeal is decided.

Since last year, six other federal judges have weighed in on the CDC Order—three courts have upheld it and three have held it invalid. The effect of this latest ruling further calls into question its effectiveness. It leaves state courts with inconsistent guidance on how to handle eviction cases and eviction moratorium enforcement up to each individual judge's discretion.

[See:](#)
[Memorandum Opinion](#)

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Fraser Stryker's business attorneys are here to help:



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