



August 4, 2021

**RE: IMPORTANT UPDATE: New CDC Order Temporarily Reinstating Eviction Moratorium**

**PLEASE REVIEW THIS DOCUMENT ENTIRELY**

**DONNA S. BARFIELD**  
Attorney at Law

**RYAN R. MCCAIN**  
Florida Bar Board Certified  
Real Estate Lawyer

**DARREN J. AYOUB**  
Attorney at Law

**BARFIELD MCCAIN PA**  
Attorneys and  
Counselors at Law

**BARFIELDPA.COM**

**Ph: (561) 650-8139**  
**Fx: (561) 650-8146**

Dear Valued Client:

As you may be aware, on August 3, 2021, the U.S. Centers for Disease Control and Prevention (“CDC”) signed a Temporary Order reinstating and extending the moratorium on certain residential evictions through October 3, 2021. This extension comes two days after the expiration of the previous CDC Eviction Moratorium and is predicated on the substantial escalation in new COVID-19 cases attributed to the rise of the Delta variant.

**Is this new Temporary Order different then the CDC’s previous eviction moratorium?**

Not really. This Temporary Order is nearly identical to the previous CDC eviction moratorium with one notable addition, specifically, that “covered persons” must reside in a U.S. county experiencing substantial or high rates of community transmission levels of SARS-CoV-2 as defined by the CDC. You may visit <https://covid.cdc.gov/covid-data-tracker/#county-view>, a link to the CDC’s Data Tracker which specifies which counties are experiencing substantial or high rates of community transmission levels of SARS-CoV-2. Unfortunately, and as shown in the CDC Data Tracker, the entire state of Florida is considered to be experiencing substantial (orange) or high (red) rates of transmission and, as such, would be covered by the Temporary Order.

**Does this extension affect the requirement for CARES Act covered properties to issue 30-day Notices to Pay or Vacate instead of 3-day Notices?**

No. The requirement for CARES Act covered properties to issue 30-day notices, as interpreted by the US Department of Housing and Urban Development (“HUD”), is completely separate and apart from the previous or current CDC eviction moratorium. As such, and per pervious HUD guidance described in our May 7, 2021 advisory, the requirement for CARES Act covered properties to issue 30-Day Notices continues to remain in effect.

**Are Landlords still required to include disclosure language regarding nonpayment evictions per the Consumer Financial Protection Bureau’s (CFPB) May 3, 2021, Order?**

Yes, in light of the reinstatement/extension outlined herein, we recommend that the CFPB disclosure language continue to be included on your nonpayment



notices while the CDC's eviction moratorium remains in effect. See our previous advisory dated April 22, 2021.

### **Does the CDC's new Temporary Order impact a Landlords ability to file an eviction based on Holdover?**

The CDC's new Temporary Order, like all previous orders, is in relation to the execution of writs of possession for nonpayment eviction cases. As such, the order should not impede a Landlord's ability to evict based on holdover. However, it should be noted that certain judges have interpreted this Order differently and refused to issue writs of possession even in the cases for holdover. This is uncommon and we do not believe it reflects the interpretation of the majority of courts here in Florida, but you should be aware that it has occurred.

### **Is this new CDC Order Lawful?**

As it currently stands, that is unclear. The United States Supreme Court issued a ruling on June 29, 2021, which signaled that any further extension of the CDC eviction moratorium past July 31, 2021, would require "clear and specific congressional authorization (via new legislation)..." Since the CDC's new order does not stem from new congressional legislation, it is likely that the Supreme Court would find this Temporary Order to be unconstitutional too. However, we must abide by the new CDC order unless and until a court rules otherwise.

### **Do Landlords have any other options other than waiting for the CDC Eviction Moratorium to expire?**

Yes! Many Landlords have begun utilizing other means to deal with delinquencies. We are including a short list of these options below for review and consideration.

- **Participating in Rental Assistance:** Many Landlords have been able to recoup several months of arrearages and even future rent payments through governmentally funded rental assistance programs.
- **Entering into Agreements to Vacate with Tenants:** Many tenants will agree to enter into an Agreement to Vacate before an eviction is filed rather than have an eviction filing or judgement on their record. Make sure to explore this option as a potential convenient alternative to an eviction filing.
- **Payment Plans and Stipulations:** You are certainly always able to enter into a payment plan with a tenant to recoup an outstanding balance. **However, if the tenant is currently under eviction with our office, please contact us before accepting any funds so that we may draft a stipulation for Court filing and approval.**
- **Offering to waive a portion of the outstanding rent balance, early termination fees, and/or a "cash for keys" agreement.** Be sure that a properly worded agreement is signed and is enforceable.

We hope that you find this communication helpful and welcome any questions you may have. Our highest priority remains to support you. Best wishes to you and yours for continued health and prosperity.

Warm Regards,  
Your Friends at Barfield, McCain PA