



August 31, 2021

RE: Important Update/Advisory: Supreme Court of the United States Issues Ruling Vacating the CDC Eviction Moratorium

Dear Valued Client:

We hope this correspondence finds you well. As you may be aware, on August 26, 2021, the Supreme Court of the United States (“SCOTUS”) issued a 6-3 ruling vacating the U.S. Centers for Disease Control and Prevention’s (“CDC”) federal eviction moratorium and stating the CDC’s eviction moratorium was unlawful as the CDC acted outside of its legal authority granted by Congress. SCOTUS’s ruling also stated that “it is up to Congress, not the CDC, to decide whether the public interest merits further action here. If a federally imposed eviction moratorium is to continue, Congress must specifically authorize it.” As such, please be aware that Congress could reimpose an eviction moratorium in the near future through new legislation, which is already being debated, so stay tuned.

What does the SCOTUS ruling mean for pending cases previously subject to a CDC Declaration?

If a pending case is currently stayed due to a CDC Declaration, then it will likely require a motion to the Court, and entry of an Order to lift the stay and proceed with the case. Please be aware that with the current backlog of stayed cases, this process may take several weeks or months. Please remain patient and cognizant of the logistics involved in addressing the massive backlog of filings.

If a pending case is not currently stayed due to a CDC Declaration, but a Declaration has been filed, then we should be able to proceed normally.

Does the SCOTUS ruling change 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 CDC eviction moratorium. As such, and per previous 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.

Moreover, this ruling will not change the judicial landscape regarding evictions overnight. There is still a voluminous backlog of currently pending and/or stayed eviction cases and it will take a significant amount of time to see a consistent change in the lifespan of current and future eviction cases. With that in mind, our team will be addressing cases from oldest to newest in an effort to deal with the backlog as efficiently and quickly as possible.

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Did you accept a payment, regain possession, accept rental assistance or otherwise enter into a settlement since filing your eviction?

If so, please notify our offices immediately. Please also confirm the reason for your cancellation request.

As a reminder, all cancellations must be in writing and should be sent to cancel@barfieldpa.com.

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