

## U.S. Supreme Court Denies Further Extension of Centers for Disease Control and Prevention Temporary Moratorium on Evictions

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As you know, the Centers for Disease Control and Prevention (“CDC”) and the State have issued various orders limiting eviction activities throughout the pandemic. Most recently, the CDC had extended its temporary moratorium on certain residential evictions through October 3, 2021. However, on August 26, 2021, the United States Supreme Court granted a group of landlords’ request to vacate the CDC’s moratorium. As a result, there is no longer any federal-level eviction moratorium in place. The full decision of the Court is available at [here](#).

In brief summary, the Court concluded that the CDC’s reliance on certain provisions of the federal Public Health Service Act did not provide sufficient authority to permit the CDC to enact an eviction moratorium in the midst of the coronavirus pandemic. Specifically, the Supreme Court held that statute only granted the CDC limited authority to impose measures necessary to combat the transmission of communicable diseases such as, “inspection, fumigation, disinfection, sanitation, [and] pest extermination.” The Court explained that the alleged authority claimed by the CDC in the statute on which it based its authority, including the imposition of criminal penalties of fines and imprisonment for violations of the moratorium, was “unprecedented.” The Court also reasoned that the Government had adequate time to distribute rental-assistance to tenants since the Court had addressed a prior challenge to the CDC’s last temporary moratorium that had been set to expire on July 31, 2021, and that, in fact, a significant amount of emergency rental assistance had been issued to assist renters facing evictions. The Supreme Court held that allowing the moratorium to continue would irreparably harm landlords by preventing them from evicting tenants and depriving landlords of rent payments “with almost no guarantee of eventual recovery.” Thus, the Court concluded that the Government’s interest in extending the moratorium had decreased while the harm to landlords has increased. Moreover, the Court pointed out that, at the time the plaintiffs’ original motion to vacate the stay was denied, Congress had been put on notice that a further extension of the CDC moratorium would “almost surely require new legislation,” yet Congress failed to take action to that end.

As a result of the Supreme Court’s decision terminating the CDC’s temporary moratorium, certain changes have taken effect regarding summary process requirements in Massachusetts eviction cases. In particular, as you may recall, on June 16, 2021 the Governor signed into law Chapter 20 of the Acts of 2021 (the “Act”) which amended, in part, the summary process evictions rules. Certain provisions of the Act were set to take effect once the CDC’s temporary moratorium was terminated. Subsequent to the termination of the CDC’s temporary moratorium, landlords are no longer required to include with a notice to quit for non-payment of rent a statement that tenants were provided a declaration form pursuant to prior CDC orders. However, under other provisions of the Act,

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landlords are still required to include a form, developed by Executive Office of Housing and Economic Development, informing tenants of their rights in an eviction case and rental assistance options with a notice to quit for non-payment of rent.

For more information about evictions and summary process requirements, please see our prior eUpdate, which can be found [here](#). We will, of course, continue to keep you apprised of new developments. In the meantime, should you have questions, please contact your KP Law attorney or e-mail us at [coronavirusinfo@k-plaw.com](mailto:coronavirusinfo@k-plaw.com).

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