

No. 20A169

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IN THE  
*Supreme Court of the United States*

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ALABAMA ASSOCIATION OF REALTORS, *et al.*,  
APPLICANTS,  
V.  
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,  
RESPONDENTS.

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**MOTION FOR LEAVE TO FILE AND BRIEF FOR THE AMERICAN  
ACADEMY OF PEDIATRICS; AMERICAN MEDICAL ASSOCIATION;  
CHILDREN'S HEALTHWATCH; GLMA: HEALTH PROFESSIONALS  
ADVANCING LGBTQ EQUALITY; MEDICAL SOCIETY OF THE DISTRICT  
OF COLUMBIA; NATIONAL HISPANIC MEDICAL ASSOCIATION;  
NATIONAL MEDICAL ASSOCIATION; NORTH CAROLINA PEDIATRIC  
SOCIETY; EMILY A. BENFER; KIM M. BLANKENSHIP; KATHERINE L.  
CHEN; MATTHEW DESMOND; GREGG GONSALVES; PETER  
HEPBURN; DANYA E. KEENE; KATHRYN M. LEIFHEIT; MICHAEL Z.  
LEVY; SABRIYA A. LINTON; WENDY PARMET; CRAIG E.  
POLLACK; JULIA RAIFMAN; AND DAVID VLAHOV AS *AMICI CURIAE* IN  
OPPOSITION TO THE EMERGENCY APPLICATION TO VACATE THE  
STAY**

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The American Academy of Pediatrics; American Medical Association; Children’s Healthwatch; GLMA: Health Professionals Advancing LGBTQ Equality; Medical Society of the District of Columbia; National Hispanic Medical Association; National Medical Association; North Carolina Pediatric Society; Emily A. Benfer; Kim M. Blankenship; Katherine L. Chen; Matthew Desmond; Gregg Gonsalves; Peter Hepburn; Danya E. Keene; Kathryn M. Leifheit; Michael Z. Levy; Sabriya A. Linton; Wendy Parmet; Craig E. Pollack; Julia Raifman; and David Vlahov (collectively, the “*amici*”) move for leave to file the enclosed brief as *amici curiae* in support of respondents and in opposition to the application to vacate the stay (1) without 10 days’ notice to the parties of *amici*’s intent to file as ordinarily required by Sup. Ct. R. 37.2(a), and (2) in an unbound format on 8½-by-11-inch paper rather than in booklet form.

The respondents extended the effect of the CDC order in question in this case until July 31 on June 24. In light of this action, the Court’s ruling on this motion could have profound impacts on the health of millions of Americans. *Amici* are leading experts who study how housing and eviction in particular affect health. Due to this recent action, ten days’ notice to parties was infeasible. In addition, the compressed time frame prevented the *amici* from having the brief finalized in sufficient time to allow it to be printed and filed in booklet form. This larger format also allows for the fuller display of figures demonstrating how evictions spread COVID-19, and recent research on the lower rates of vaccination among Americans most at risk for being evicted. When contacted, applicants did not consent; and respondents took no position as to this brief’s filing.

As set forth in the enclosed brief, the undersigned *amici* are the nation's leading experts in the health effects of the outcome of this application to vacate the district court's stay. Specifically, the *amici* have a critical interest in avoiding the instantaneous dissolution of the Centers for Disease Control and Prevention's Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 ("CDC Order"), which would precipitate an unprecedented wave of evictions and threaten substantial harm to individuals, communities, and the public health during a continued pandemic.

### Conclusion

This Court should grant *amici curiae* leave to file the enclosed brief.

Respectfully submitted,

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## INTRODUCTION AND INTEREST OF *AMICI CURIAE*<sup>1</sup>

The 22 *amici curiae*<sup>2</sup> joining this brief are the nation's foremost experts on eviction, housing, and health. They include: national association *amici* that represent medical professionals who strive to advance the health of children, adolescents, adults, and disadvantaged and minority populations; organizational *amici* that specialize in public health; and individual *amici* who are sociologists, epidemiologists, and public health, law, nursing, and medical school faculty. Based on their extensive research and work in this area, all *amici* recognize that housing is critical to protecting public health and ensuring health equity during the COVID-19 pandemic. For this reason, they submit this brief in support of respondents and in opposition to Applicants' emergency application to vacate the district court's stay.

Eviction moratoriums help reduce the spread of COVID-19. When the majority of state-level moratoriums expired, the Centers for Disease Control and Prevention ("CDC") issued an agency order ("CDC Order") to prevent evictions from spreading COVID-19 and thwarting pandemic mitigation efforts. The CDC Order recites only the tip of the iceberg of health evidence linking evictions and COVID-19 spread. The best available studies suggest that complete and comprehensive eviction moratoriums can effectively slow the spread of COVID-19 and prevent COVID-19 transmission, infection, and mortality.

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<sup>1</sup> Pursuant to Rule 37.6, *amici* affirm that no counsel for a party authored this brief in whole or in part and that no person other than amici and their counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

<sup>2</sup> Briefs filed by the *amici* do not represent any institutional views of the law schools and universities with which the *amici* are affiliated, or their counsel.

Protecting public health during the pandemic requires protecting those most likely to contract, spread, and die from COVID-19. The people most at risk of eviction are particularly vulnerable to COVID-19 and are likely to live in the ZIP codes with the lowest vaccination rates. Low-income populations are often exposed to social determinants of poor health and often have chronic illness or disability. As such, they are at enhanced risk of serious complications or death as a result of COVID-19. The consequences of eviction (such as overcrowding, homelessness, and housing instability) spur contact with others and hinder compliance with key strategies to contain COVID-19, including social distancing, self-quarantining, and hand hygiene. These deleterious health impacts and the spread of COVID-19 are tied to the act of eviction itself and are quite preventable if evictions are halted under the CDC’s moratorium at this critical turning point in the pandemic’s course.

## ARGUMENT

### I. Mass Evictions Are Likely Nationwide Without the CDC Order

#### A. *The COVID-19 Pandemic Significantly Increased Housing Insecurity*

COVID-19 struck the United States when millions of adults and children already lived perilously close to eviction. One out of four (10.9 million) renters spent over half of their income on housing before the pandemic due to stagnant wages, rising rents, and lack of federal financial support.<sup>3</sup> In the United States, 29.3% of renter households were rent burdened—defined as spending 30–50% of income on housing—

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<sup>3</sup> *America’s Rental Housing 2020*, JOINT CTR. FOR HOUS. STUD. OF HARV. U. 4, 26 (2020), <https://bit.ly/3iJ95tx>.

before the pandemic.<sup>4</sup> In 2016, the last available year of nationwide eviction data, 3.7 million evictions were filed nationally.<sup>5</sup>

The pandemic recession precipitated widespread job and wage loss. Between April and July 2020, the national unemployment rose as high as 14.7%; most recently it rested at 5.8% in May 2021.<sup>6</sup> That month, the Census Bureau estimated that over 7 million renters were behind on housing payments.<sup>7</sup> On top of this, 19.88% of all households with children reported slight or no confidence in their ability to pay next month's rent, and thus are at heightened risk of eviction.<sup>8</sup> Throughout the pandemic, Black families have faced the highest risk of eviction.<sup>9</sup> Federal unemployment assistance, stimulus payments, and rental assistance have not been sufficient to prevent debt accumulation among tenants.<sup>10</sup> Rental assistance is only just beginning to reach tenants and landlords.<sup>11</sup>

### *B. Without Legal Protections from Eviction, Filing Rates Increase*

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<sup>4</sup> *Map and Data*, EVICTION LAB, <http://evictionlab.org/map/2016> (last visited June 27, 2021) (based on U.S. Census 2011-2016 American Community Survey).

<sup>5</sup> *On the Brink of Homelessness: How the Affordable Housing Crisis and the Gentrification of America Is Leaving Families Vulnerable: Hearing Before the H. Comm. on Fin. Servs.*, 116th Cong. 3 (2020) (statement of Matthew Desmond), <https://bit.ly/3npCaxH>.

<sup>6</sup> Press Release, BUREAU OF LAB. STAT., *The Employment Situation—May 2021* (June 4, 2021), <https://bit.ly/2UGrvVs>.

<sup>7</sup> *Week 30 Household Pulse Survey: May 12 – May 24*, U.S. CENSUS BUREAU at Housing Table 1b (June 2, 2021), <https://bit.ly/3wXp277>.

<sup>8</sup> *Id.* at Housing Table 2b.

<sup>9</sup> Emily Lemmerman, Renee Louis, Joe Fish & Peter Hepburn, *Preliminary Analysis: Who is being filed against during the pandemic?*, EVICTION LAB (Dec. 21, 2020), <https://bit.ly/3t1nsyi>.

<sup>10</sup> *See Policy Basics: How Many Weeks of Unemployment Compensation Are Available?*, CTR. ON BUDGET & POL'Y PRIORITIES, <https://bit.ly/2RaIT2Y> (last updated Apr. 17, 2021); *Unemployment Insurance Relief During COVID-19 Outbreak*, U.S. DEP'T OF LAB., <https://bit.ly/3vo3mQs> (last visited May 12, 2021).

<sup>11</sup> Jason DeParle, *Federal Aid to Renters Moves Slowly, Leaving Many at Risk*, N.Y. TIMES (Apr. 25, 2021), <https://nyti.ms/3vkFHAr>.

During the pandemic, the Eviction Lab at Princeton University has tracked real-time eviction filings in 27 cities and 5 states, representing one-fifth of the rental market.<sup>12</sup> Based on this data, the Eviction Lab identified that a significant number of property owners use the eviction process as a rent collection tool<sup>13</sup> and are evicting tenants for small amounts of money—during the pandemic, typically less than the local median amount for one month’s rent and as little as \$120—showing that property owners seem to have a low threshold for profit loss before they consider displacing their tenants.<sup>14</sup> At the same time, tenants lack legal protections or support to contest evictions, especially as demand for legal assistance has increased during the pandemic.<sup>15</sup> Municipalities with weaker eviction protections see more eviction filings.<sup>16</sup>

The Eviction Lab’s research on eviction filings during the pandemic shows that 1) moratoriums effectively chill eviction filings during the pandemic; and 2) without moratoriums, eviction filings quickly reach or exceed historic filing rates. Along with stimulus and federal unemployment payments, the CARES Act slowed evictions by

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<sup>12</sup> *The Eviction Tracking System*, EVICTION LAB, <https://bit.ly/3tPrgUP> (last updated June 19, 2020).

<sup>13</sup> Lillian Leung, Peter Hepburn & Matthew Desmond, *Serial Eviction Filings: Civil Courts, Property Management, and the Threat of Displacement*, SOC. FORCES 1, 19 (2020), <https://bit.ly/2FcNPhX>.

<sup>14</sup> Renee Louis, Alieza Durana & Peter Hepburn, *Preliminary Analysis: Eviction Claim Amounts During COVID-19 Pandemic*, EVICTION LAB (Aug. 27, 2020), <https://bit.ly/3gAS5Io>.

<sup>15</sup> Nationwide, an estimated 90% of landlords have legal counsel compared to only 10% of tenants in eviction proceedings. Matthew Desmond, *Unaffordable America: Poverty, Housing, and Eviction*, 22 FAST FOCUS 1 (2015), <https://bit.ly/36MxjAO>.

<sup>16</sup> *The Eviction Tracking System*, *supra* note 12.

prohibiting eviction of tenants in buildings with federally backed mortgages or federal subsidies until August 25.<sup>17</sup> Since September 4, 2020, the CDC Order has forestalled residential evictions where a tenant meets certain criteria.<sup>18</sup> These actions to prevent the spread of COVID-19 were effective. In the short period between expiration of CARES Act protections and promulgation of the CDC Order, new eviction filings rose quickly to exceed historical levels in almost every jurisdiction without a local moratorium (Figure 1).<sup>19</sup> Eviction filings rose as much as 395% above historical weekly averages after the CARES Act expired.<sup>20</sup> Following the CDC Order, new filings dropped dramatically, to as low as 83% below historical weekly averages.<sup>21</sup> The Eviction Lab estimates that, due to moratoriums, landlords filed 2.14 million fewer evictions since March 15, 2020 than would be typically filed.<sup>22</sup> Without the CDC Order, it is likely that evictions will quickly increase to unprecedented heights. This would place families and individuals at risk of contracting and spreading COVID-19, as well as related and severe health harms.

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<sup>17</sup> Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 4024, 134 Stat. 281, 491 (2020).

<sup>18</sup> *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, 85 FED. REG. 55292 (Sept. 4, 2020); *CDC Eviction Moratorium – Initial Analysis*, NLIHC (Sept. 4, 2020), <https://bit.ly/2GFrn1C>.

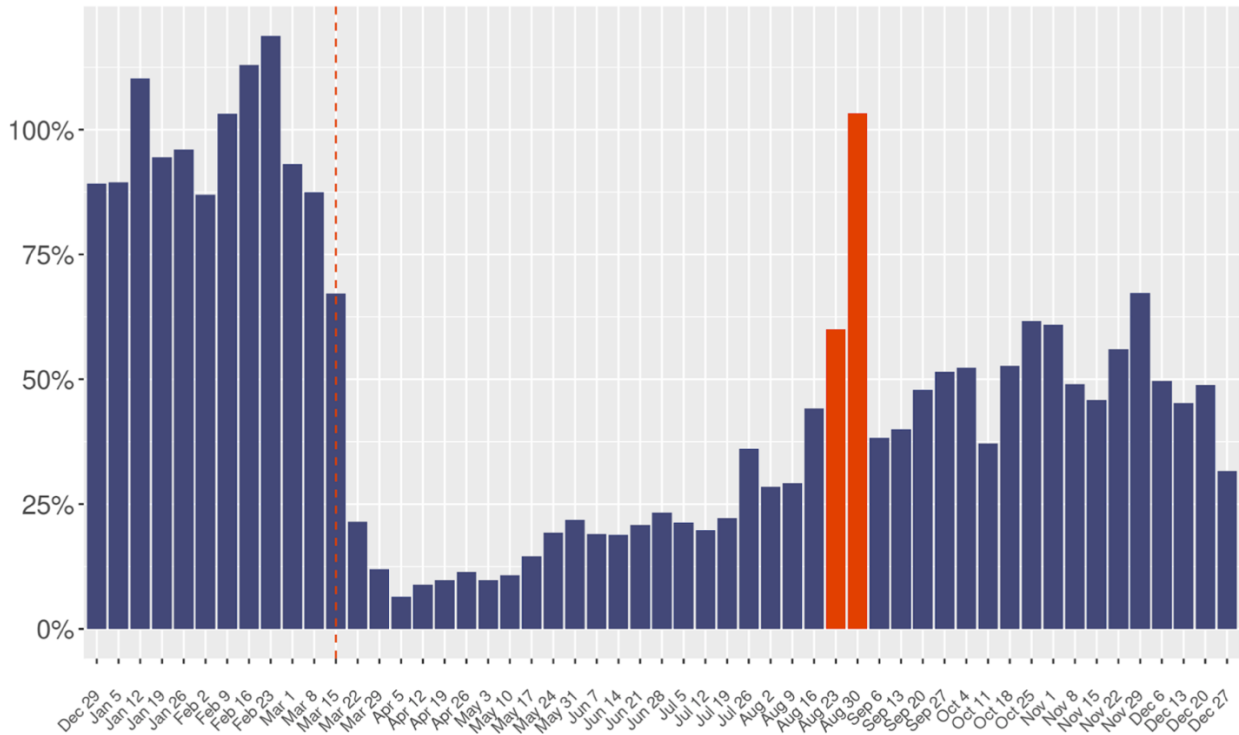
<sup>19</sup> Peter Hepburn & Renee Louis, *Preliminary Analysis: Shifts in Eviction Filings from the CARES Act to the CDC Order*, EVICTION LAB (Sept. 22, 2020), <https://bit.ly/30LMeaw>.

<sup>20</sup> *The Eviction Tracking System*, *supra* note 12.

<sup>21</sup> Olivia Jin, Emily Lemmerman & Peter Hepburn, *Neighborhoods with Highest Eviction Filing Rates have Lowest Levels of COVID-19 Vaccination*, EVICTION LAB (June 11, 2021) <https://bit.ly/3jkVAnI>; see also Hepburn & Louis, *supra* note 19, reporting 1.55 million fewer filings in 2020.

<sup>22</sup> Peter Hepburn, Renee Louis, Joe Fish, Emily Lemmerman, Anne Kat Alexander, Timothy A. Thomas, Robert Koehler, Emily Benfer & Matthew Desmond, *U.S. Eviction Filings in 2020*, SOCIUS (2021). See also U.S. GOV'T ACCOUNTABILITY OFF., *Covid19 Housing Protections: Moratoriums Have Helped Limit Evictions, but Further Outreach Is Needed* 15 (2021).

Figure 1. Weekly Eviction Filings in Eviction Tracker System Sites Relative to Historical Averages.



## II. Eviction Moratoriums Slow the Spread of COVID-19 and Prevent Negative Short- and Long-Term Health Outcomes

### A. Evictions Spread COVID-19, Thwarting Efforts to Contain the Virus

Eviction forces families into transiency and crowded residential environments<sup>23</sup> that increase new contact with others and make compliance with pandemic health guidelines difficult, if not impossible (Figure 2). Eviction increases the likelihood of staying with family and friends who may themselves be at high risk for

<sup>23</sup> Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOC. 88, 120 (2012) (stating eviction “greatly diminishes one’s chance of securing affordable housing in a decent neighborhood, stymies one’s chances of securing housing assistance, and often leads to homelessness and increased residential mobility”).

COVID-19.<sup>24</sup> Residential crowding and increased contact with others drive the spread of respiratory illnesses, including COVID-19.<sup>25</sup> Even seemingly small differences in household size have been linked to substantial increases in the transmission rate of infectious disease.<sup>26</sup> Adding as few as two new members to a household can as much as double the risk of other illness.<sup>27</sup> This increased likelihood of transmission of infectious disease generally comports with research on the novel coronavirus, which recognizes that individuals are at particularly high risk of contracting COVID-19 from others in their household.<sup>28</sup>

Smaller, crowded spaces increase the spread of respiratory diseases like COVID-19. During the 1918 influenza epidemic, the difference between having 45 square feet and 78 square feet of living space per person was associated with a ten-

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<sup>24</sup> Michelle D. Layser et al., *Mitigating Housing Instability During a Pandemic*, OR. L. REV. (forthcoming 2021) (manuscript at 4, 14), <https://bit.ly/3sOpjGS>.

<sup>25</sup> See Eric Lofgren et al., *Influenza Seasonality: Underlying Causes and Modeling Theories*, 81 J. VIROLOGY 5429, 5431 (2007); see also B.L. Gleason et al., *Geospatial Analysis of Household Spread of Ebola Virus in Quarantined Village—Sierra Leone, 2014*, 145 EPIDEMIOLOGY & INFECTION 2921, 2921 (2017) (showing that an increasing number of persons per household was a risk factor for household Ebola acquisition); M. Kermode et al., *Tuberculosis Infection and Homelessness in Melbourne, Australia, 1995-1996*, 3 INT’L J. TUBERCULOSIS & LUNG DISEASE 901, 901, 905 (1999); Andrew R. Zolopa et al., *HIV and Tuberculosis Infection in San Francisco’s Homeless Adults: Prevalence and Risk Factors in a Representative Sample*, 272 JAMA 455, 458 (1994).

<sup>26</sup> Patrick K. Munywoki et al., *Frequent Asymptomatic Respiratory Syncytial Virus Infections During an Epidemic in a Rural Kenyan Household Cohort*, 212 J. INFECTIOUS DISEASES 1711, 1711 (2015), <https://bit.ly/3nwYDJ2>; see also Abhishek Bakuli et al., *Effects of Pathogen Dependency in a Multi-Pathogen Infectious Disease System Including Population Level Heterogeneity—A Simulation Study*, 14 THEORETICAL BIOLOGY & MED. MODELLING 1, 1 (2017), <https://bit.ly/2IaVtdW>.

<sup>27</sup> Michael Baker et al., *Household Crowding a Major Risk Factor for Epidemic Meningococcal Disease in Auckland Children*, 19 PEDIATRIC INFECTIOUS DISEASE J. 983, 983 (2000) (adding two adolescents or adults to a six-room home roughly doubles the risk of meningococcal disease).

<sup>28</sup> Qifang Bi et al., *Epidemiology and Transmission of COVID-19 in 391 Cases and 1286 of Their Close Contacts in Shenzhen, China: A Retrospective Cohort Study*, 20 LANCET 911, 911 (2020).

fold increase in the rate of illness.<sup>29</sup> Other studies suggest overcrowding spreads tuberculosis<sup>30</sup> and severe cases of influenza among children.<sup>31</sup>

Evicted households are likely to contract—and spread—COVID-19 while moving from shelter to shelter or home to home.<sup>32</sup> In many cases, people facing homelessness will sleep in cars or outdoors, where they have access only to public restrooms.<sup>33</sup> These environments prevent individuals and families from adhering to the CDC’s primary interventions: social distancing, maintaining good hygiene practices such as hand washing, self-quarantining, or cleaning masks and other personal protective equipment. By driving families to poorer neighborhoods, eviction may also lead to less frequent COVID-19 testing.<sup>34</sup>

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<sup>29</sup> C. Andrew Aligne, *Overcrowding and Mortality During the Influenza Pandemic of 1918: Evidence from U.S. Army Camp A.A. Humphreys, Virginia*, 106 AM. J. PUB. HEALTH 642, 642 (2016) (noting that the relationship between crowding and flu was highly significant ( $p < 0.001$ )).

<sup>30</sup> E. Drucker et al., *Childhood Tuberculosis in the Bronx, New York*, 343 LANCET 1482, 1482 (1994), <https://bit.ly/34FEaci>.

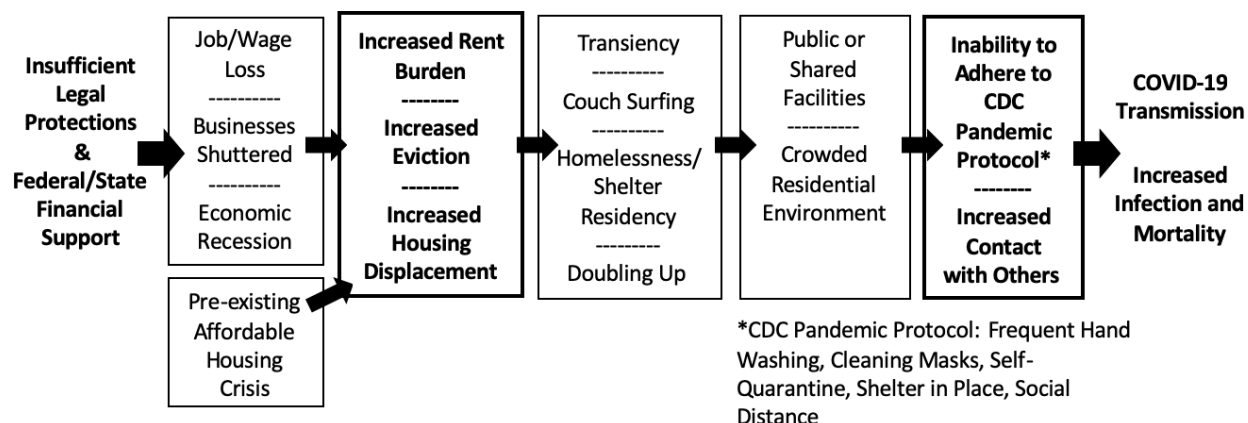
<sup>31</sup> Kimberly M. Yousey-Hindes & James L. Hadler, *Neighborhood Socioeconomic Status and Influenza Hospitalizations Among Children: New Haven County, Connecticut, 2003–2010*, 101 AM. J. PUB. HEALTH 1785 (2011).

<sup>32</sup> *COVID-19 Pandemic Planning Scenarios*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 10, 2020), <https://bit.ly/36RatI6>.

<sup>33</sup> Sara K. Rankin, *Punishing Homelessness*, 22 NEW CRIM. L. REV. 99, 126 (2019).

<sup>34</sup> Stephanie Schmitt-Grohé, Ken Teoh & Martín Uribe, *Covid-19: Testing Inequality in New York City* (NBER Working Paper No. 27019), <https://bit.ly/3vm6YCH>.

Figure 2. Eviction Increases the Risk of COVID-19 Acquisition and Transmission.<sup>35</sup>



Indeed, the mere threat of eviction can increase stress levels, anxiety, and depression, which weaken the immune system.<sup>36</sup> These responses are likely to advance the spread of infectious diseases. Because of the highly contagious nature of COVID-19, increased contraction of the disease among individuals facing eviction can quickly boost transmission across a large segment of the community.

Housing stability is especially critical to pandemic control because infected persons can spread COVID-19 before they start showing symptoms and possibly for weeks after symptoms appear.<sup>37</sup> According to the CDC, approximately 30% of infected individuals may never show symptoms—but nonetheless may transmit the virus to

<sup>35</sup> Emily A. Benfer, David Vlahov, Marissa Long, Evan Walker-Wells, J.L. Pottenger, Jr., Gregg Gonsalves & Danya E. Keene, *Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy*, 98 J. URB. HEALTH 1 (2021), <https://bit.ly/2LcBvRA>.

<sup>36</sup> Dusica Lecic Tosevski & Milica Pejovic Milovancevic, *Stressful Life Events and Physical Health*, 19 CURRENT OP. PSYCHIATRY 184, 185, 187 (2006); see Hugo Vásquez-Vera et al., *The Threat of Home Eviction and Its Effects on Health Through the Equity Lens: A Systemic Review*, 175 SOC. SCI. & MED. 199, 202–05 (2017); see generally Linda M. Niccolai, Kim M. Blankenship & Danya E. Keene, *Eviction from Renter-Occupied Households and Rates of Sexually Transmitted Infections: A County-Level Ecological Analysis*, 46 SEXUALLY TRANSMITTED DISEASES 63 (2019).

<sup>37</sup> *COVID-19 Basics*, HARV. MED. SCH., <https://bit.ly/3nviSa3> (last updated June 22, 2021) (summarizing studies that “have shown that symptoms could appear as soon as three days after exposure to as long as 13 days later”).

others.<sup>38</sup> Due to the high rate of movement among people who face eviction, eviction is likely to spread COVID-19 by exposing healthy individuals to those who are unaware they are carrying the virus or those who know they have COVID-19, but are unable to self-isolate.<sup>39</sup>

Eviction is associated with decreased access to primary and specialty medical care, regardless of an individual's housing status post-eviction.<sup>40</sup> In addition, those facing eviction have difficulty prioritizing their health needs while fighting to maintain housing.<sup>41</sup> From this baseline, eviction itself amplifies individual risk of COVID-19 complications and mortality.

Whether through increased crowding; decreased ability to maintain safe, clean, and hygienic living spaces; or limited access to health care, eviction is particularly threatening to individual and public health during a pandemic.<sup>42</sup>

*B. Eviction Increases the Rate of COVID-19 Among High-Risk Populations,  
Leading to Long-Term Complications or Death*

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<sup>38</sup> *COVID-19 Pandemic Planning Scenarios*, *supra* note 32, at Table 1.

<sup>39</sup> Anjalika Nande, Justin Sheen, Emma L. Walters, Brennan Klein, Matteo Chinazzi, Andrei H. Gheorghe, Ben Adlam, Julianna Shinnick, Maria Florencia Tejeda, Samuel V. Scarpino, Alessandro Vespignani, Andrew J. Greenlee, Daniel Schneider, Michael Z. Levy & Alison L. Hill, *The Effect of Eviction Moratoria on the Transmission of SARS-CoV-2*, 12 NATURE COMM'NS 2274 (2021), <https://go.nature.com/3esNYLV>.

<sup>40</sup> See Mary Clare Kennedy et al., *Residential Eviction and Risk of Detectable Plasma HIV-1 RNA Viral Load Among HIV-Positive People Who Use Drugs*, 21 AIDS & BEHAV. 678, 681, 683 (2017). Eviction may lead to decreased engagement in healthcare, resulting in missed appointments and lack of adherence to prescribed treatment. See Niccolai, Blankenship & Keene, *supra* note 36, at 66.

<sup>41</sup> Danya E. Keene, "That Wasn't Really a Place to Worry About Diabetes": *Housing Access and Diabetes Self-Management Among Low-Income Adults*, 197 SOC. SCI. & MED. 71 (2018).

<sup>42</sup> Benfer et al., *supra* note 35.

People most vulnerable to eviction are more likely to suffer from poor health conditions that place them at high risk of severe or fatal cases of COVID-19.<sup>43</sup> The lower a person's socioeconomic status, the greater their risk of eviction and suffering from chronic diseases, including heart disease, pulmonary disease, and diabetes.<sup>44</sup> Each of these may increase the mortality risk of COVID-19.<sup>45</sup> The CDC has identified several comorbidities that increase risk of severe illness with COVID-19, including pulmonary disease, high blood pressure, diabetes, obesity, chronic liver or kidney disease, and respiratory disease.<sup>46</sup> Each of these conditions is more prevalent among low-income populations and people of color, the populations most at risk of eviction before and during the pandemic.<sup>47</sup>

Eviction itself leads to numerous comorbidities.<sup>48</sup> Evictions are associated with several interrelated conditions, including anxiety, depression, sexually transmitted

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<sup>43</sup> *Id.* at nn.51–81, table. 1.

<sup>44</sup> *Id.* at 57.

<sup>45</sup> *Id.*

<sup>46</sup> *People with Certain Medical Conditions*, CTRS. FOR DISEASE CONTROL & PREVENTION (Mar. 21, 2021), <https://bit.ly/3jVuuRL>; *People at Increased Risk*, CTRS. FOR DISEASE CONTROL & PREVENTION (Apr. 20, 2021), <https://bit.ly/2GNtvEi>.

<sup>47</sup> Peter Hepburn, Renee Louis & Matthew Desmond, *Racial and Gender Disparities Among Evicted Americans*, 7 SOCIO. SCI. 649 (2020); *Housing is the Best Medicine: Supportive Housing and the Social Determinants of Health*, CORP. FOR SUPPORTIVE HOUS. (July 2014), <https://bit.ly/2SFpvIQ>.

<sup>48</sup> *Homelessness & Health: What's the Connection?*, NAT'L HEALTHCARE FOR THE HOMELESS COUNCIL (Feb. 2019), <https://bit.ly/34GF74a>; CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 46.

infections,<sup>49</sup> HIV-related treatment outcomes,<sup>50</sup> drug use,<sup>51</sup> exposure to violence,<sup>52</sup> mental health hospitalization,<sup>53</sup> and suicide.<sup>54</sup> During the COVID-19 pandemic, a study from researchers at Boston University and Johns Hopkins schools of public health found that suicidal ideation increased more than fourfold; stressors including difficulty paying the rent were associated with suicidal ideation.<sup>55</sup> For women, eviction is associated with physical and sexual assault,<sup>56</sup> drug use and related harms,<sup>57</sup> mental illness,<sup>58</sup> and future housing precarity.<sup>59</sup> The health conditions and high health care costs associated with eviction make future evictions more likely.<sup>60</sup>

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<sup>49</sup> Niccolai, Blankenship & Keene, *supra* note 36, at 65.

<sup>50</sup> Kennedy et al., *supra* note 40, at 7–8.

<sup>51</sup> Andreas Pilarinos et al., *The Association Between Residential Eviction and Syringe Sharing Among a Prospective Cohort of Street-Involved Youth*, 14 HARM REDUCTION J. 1, 3 (2017).

<sup>52</sup> Kennedy et al., *supra* note 40.

<sup>53</sup> Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households* at 3 (Dec. 2018), <https://bit.ly/3lrYftK>.

<sup>54</sup> Yerko Rojas & Sten-Åke Stenberg, *Evictions and Suicide: A Follow-Up Study of Almost 22,000 Swedish Households in The Wake Of The Global Financial Crisis*, 70 J. OF EPIDEMIOLOGY & COMM. HEALTH 409, 412–13 (2016).

<sup>55</sup> Julia Raifman, Catherine Ettman, Lorraine Dean, Colleen Barry & Sandro Gale, *COVID-19 Related Stressors and Suicidal Ideation* (unpublished manuscript on file with counsel).

<sup>56</sup> Nihaya Daoud et al., *Pathways and Trajectories Linking Housing Instability and Poor Health Among Low-Income Women Experiencing Intimate Partner Violence (IPV): Toward A Conceptual Framework*, 56 WOMEN & HEALTH 208, 209–10 (2016).

<sup>57</sup> Alexandra B. Collins et al., *Surviving the Housing Crisis: Social Violence and the Production of Evictions Among Women Who Use Drugs in Vancouver, Canada*, 51 HEALTH & PLACE 174, 179 (2018).

<sup>58</sup> Patty R. Wilson & Kathryn Laughon, *House to House, Shelter to Shelter: Experiences of Black Women Seeking Housing After Leaving Abusive Relationships*, 11 J. FORENSIC NURSING 77, 77 (2015).

<sup>59</sup> Craig Evan Pollack, Kathryn M. Leifheit & Sabriya L. Linton, *When Storms Collide: Evictions, COVID-19, and Health Equity*, HEALTH AFF. (Aug. 4, 2020), <https://bit.ly/36JuHnd>.

<sup>60</sup> Gabriel L. Schwartz, Kathryn M. Leifheit, Lisa Berkman, Jarvis T. Chen & Mariana C. Arcaya, *Health Selection into Eviction: Adverse Birth Outcomes and Children's Risk of Eviction Through Age 5*, AM. J. EPIDEMIOLOGY (in print); Gabriel L. Schwartz, *Cycles of Disadvantage: Eviction & Children's Health in the United States* (2020) (Ph.D. dissertation, Harv. U.) <https://bit.ly/31NMJBw>; see also Heidi L. Allen et al., *Can Medicaid Expansion Prevent Housing Evictions?*, HEALTH AFFS. (Sept. 2019), <https://bit.ly/30IZwEQ>.

In this way, eviction worsens longstanding patterns of economic and housing instability in addition to poor health.<sup>61</sup>

Eviction is particularly traumatizing to children and affects emotional and physical well-being and development for years, if not a lifetime.<sup>62</sup> Eviction increases the likelihood of emotional trauma, lead poisoning,<sup>63</sup> food insecurity,<sup>64</sup> and academic decline for children.<sup>65</sup> Eviction is also strongly associated with adverse childhood experiences, which have long-term negative health impacts, including increased risk of cardiovascular disease and pulmonary disease in adulthood and decreased life expectancy.<sup>66</sup> Children whose mothers are evicted during pregnancy are more likely to

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<sup>61</sup> MATTHEW DESMOND, *EVICTED* (2016); Allen et al., *supra* note 60; Pollack, Leifheit & Linton, *supra* note 59.

<sup>62</sup> AM. ACAD. OF PEDIATRICS, *Providing Care for Children and Adolescents Facing Homelessness and Housing Insecurity*, 131 PEDIATRICS 1206 (2013), <https://bit.ly/3dbi0CT>; Heather Sandstrom & Sandra Huerta, URB. INST., *The Negative Effects of Instability on Child Development: A Research Synthesis* 6 (2013), <https://urbn.is/2SCVfhB>.

<sup>63</sup> Gabriel L. Schwartz, Kathryn M. Leifheit, Lisa Berkman, Mariana Arcaya & Jarvis T. Chen, *Is Eviction Poisonous? A Survival Analysis of Eviction and Lead Poisoning in a National Urban Birth Cohort* (unpublished manuscript) (on file with author); Gabriel L. Schwartz, Kathryn M. Leifheit, Lisa Berkman, Jarvis T. Chen & Mariana C. Arcaya, *Health Selection into Eviction: Adverse Birth Outcomes and Children's Risk of Eviction Through Age 5*, AM. J. EPIDEMIOLOGY (forthcoming) (draft on file with authors). See also *Homelessness Just 'One of The Concerns' When Someone Is Evicted*, NEWSWISE (Jan. 28, 2020), <https://bit.ly/3loTQHR>.

<sup>64</sup> Kathryn M. Leifheit, *Eviction in Early Childhood and Neighborhood Poverty, Food Security, and Obesity in Later Childhood and Adolescence: Evidence from a Longitudinal Birth Cohort*, 11 SSM—POPULATION HEALTH 1, 6 (2020); Kathryn M. Leifheit, Gabriel L. Schwartz, Craig E. Pollack, Kathryn J. Edin, Maureen M. Black, Jacky M. Jennings & Keri N. Althof, *Severe Housing Insecurity during Pregnancy: Association with Adverse Birth and Infant Outcomes*, 17 INT'L J. ENV'T RES. PUB. HEALTH 8659 (2020) <https://bit.ly/3ga1vIJ>.

<sup>65</sup> Gabriel L. Schwartz, Kathryn M. Leifheit, Jarvis T. Chen, Mariana C. Arcaya & Lisa Berkman, *Childhood Eviction and Cognitive Skills: Developmental Timing-Specific Associations in an Urban Birth Cohort* (unpublished manuscript under publication review) (on file with author); Schwartz, *supra* note 60; see also Desmond, *supra* note 15; Thomas Kottke et al., *Access to Affordable Housing Promotes Health and Well-Being and Reduces Hospital Visits*, 22 PERMANENT J. 1, 2–3 (2017); Stephen Gaetz et al., *Youth Homelessness and Housing Stability: What Outcomes Should We Be Looking For?*, 32 HEALTHCARE MGMT. F. 73 (2019).

<sup>66</sup> Maxia Dong et al., *Childhood Residential Mobility and Multiple Health Risks During Adolescence and Adulthood: The Hidden Role of Adverse Childhood Experiences*, 159 ARCHIVES OF PEDIATRICS & ADOLESCENT MED. 1104, 1107 (2005).

have adverse birth outcomes, such as low birthweight or preterm pregnancies.<sup>67</sup> Families of children born with adverse birth outcomes are substantially more likely to be evicted in the first five years of their child's life.<sup>68</sup> The evidence is clear: Child health and housing security are closely intertwined.<sup>69</sup> Ultimately, eviction primarily affects members of society most vulnerable to COVID-19 and triggers a cycle of poor health and housing instability that increases COVID-19 infection rates and severity.

### *C. Studies Suggest Eviction Moratoriums Prevent COVID-19 Deaths*

Eviction moratoriums are an effective public health tool to slow COVID-19 infection and death.<sup>70</sup> At least three recent peer-reviewed studies demonstrate this relationship. First, researchers from University of California-Los Angeles, John Hopkins University, Boston University, University of California-San Francisco, and Wake Forest University used varying expiration dates of state eviction moratoriums as a natural experiment to evaluate whether lifting moratoriums was associated with increased COVID-19 spread and mortality.<sup>71</sup> The study cohort included forty-three states and the District of Columbia, which instituted moratoriums during the pandemic, and compared the twenty-seven states that lifted their moratoriums to those that did not. After controlling for mask orders, stay at home orders, school closures,

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<sup>67</sup> Gracie Himmelstein & Matthew Desmond, *Association of Evictions With Adverse Birth Outcomes Among Women in Georgia, 2000 to 2016*, JAMA PEDIATRICS (Mar. 1, 2021), <https://bit.ly/3aJuaTf>; Kathryn M. Leifheit, *Severe Housing Insecurity in Pregnancy: Association with Adverse Birth Outcomes in a Cohort of Urban Mothers and Infants*, AM. PUB. HEALTH ASS'N (Nov. 5, 2019), <https://bit.ly/3lvdBNN>.

<sup>68</sup> Schwartz et al., *supra* note 60.

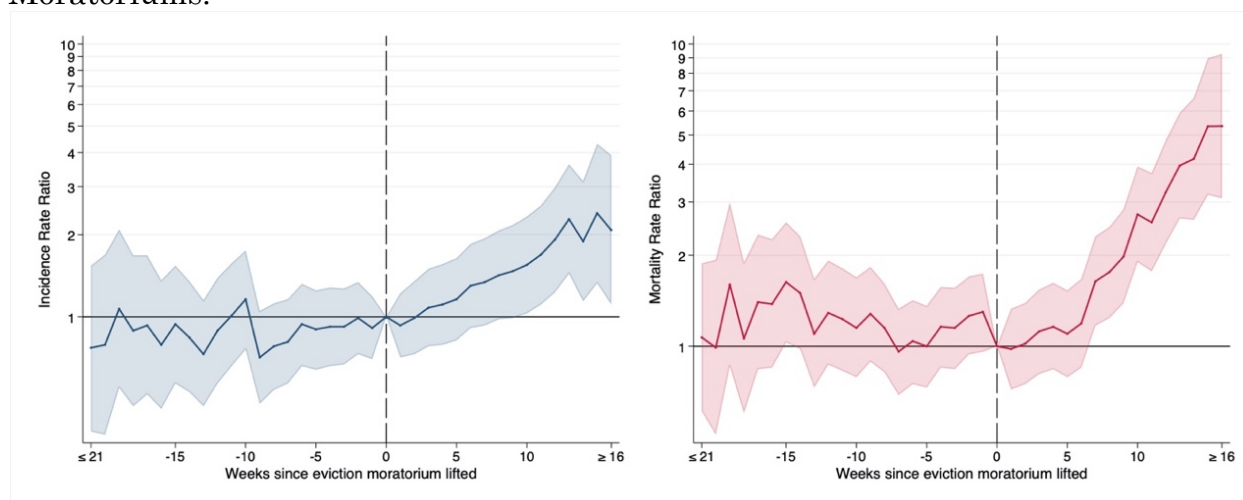
<sup>69</sup> AM. ACAD. OF PEDIATRICS, *supra* note 62.

<sup>70</sup> Benfer et al., *supra* note 35.

<sup>71</sup> Kathryn M. Leifheit, Sabriya L. Linton, Julia Raifman, Gabriel L. Schwartz, Emily A. Benfer, Frederick J. Zimmerman & Craig Evan Pollack, *Expiring Eviction Moratoria and COVID-19 Incidence and Mortality*, <https://bit.ly/2VBio5y> (in print 2021).

and testing rates, as well characteristics of states and underlying time trends, lifting moratoriums was associated with 1.6 times higher COVID-19 mortality after seven weeks and 5.4 times higher mortality after sixteen weeks.<sup>72</sup> Similarly, lifting moratoriums was associated with 1.6 times higher incidence of COVID-19 after ten weeks, and 2.1 times higher incidence after sixteen weeks compared to maintaining eviction moratoriums (Figure 3).<sup>73</sup>

Figure 3. Relative Risk of COVID-19 Cases and Deaths Associated with Lifting Moratoriums.<sup>74</sup>



A similar study conducted by researchers at Duke University and the National Bureau of Economic Research substantiates these findings.<sup>75</sup> Comparing eviction moratoriums against COVID-19 infection and mortality rates across municipalities,

<sup>72</sup> *Id.* at 3.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* Adjusted rate ratios comparing daily COVID-19 incidence (blue, new cases per population) and mortality (red, deaths per population) between states that lifted eviction moratoriums and states that maintained moratoriums. Rate ratios were modeled using negative binomial regression with fixed effects for state and calendar week, adjusting for testing rate, stay-at-home orders, school closures, and mask mandates.

<sup>75</sup> Kay Jowers, Christopher Timmins, Nrupen Bhavsar, Qihui Hu & Julia Marshall, *Housing Precarity & The COVID-19 Pandemic: Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties* (NBER Working Paper No. 28394, 2021), [bit.ly/3tKdCSH](https://bit.ly/3tKdCSH).

the authors conclude that policies limiting evictions reduced COVID-19 infection rates by 3.8% and mortality by 11% between March and November 2020.<sup>76</sup> Moreover, had a nationwide eviction moratorium existed during the entire study period, the authors estimate that national COVID-19 infection rates would have been 14.2% lower and 40.7% fewer deaths would have occurred.<sup>77</sup>

Researchers from the University of Pennsylvania, Harvard University, and University of Illinois Urbana-Champaign modeled the potential impacts of lifting eviction moratoriums on COVID-19 infection and mortality rates.<sup>78</sup> The authors determined that even a 1% increase in eviction rate can increase COVID-19 infections by 4%.<sup>79</sup> With an increase to just 2%, below the pre-pandemic national average,<sup>80</sup> the model predicted a roughly 8% increase in total infections in the first week.<sup>81</sup> The study demonstrates that the relationship between eviction rates and COVID-19 infections is not linear, but exponential.

*D. Evictions Are Concentrated in Neighborhoods with the Lowest Vaccination Rates And Slowest Economic Recoveries*

The communities that face the greatest risk and harms of eviction are also those with the lowest vaccination rates due to barriers to access. Eviction Lab tracking of eviction filings shows a strongly negative correlation between vaccination rate and eviction filing—meaning that evictions are more likely in ZIP codes with fewer

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<sup>76</sup> *Id.* at 10–11.

<sup>77</sup> *Id.* at 11.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Map and Data*, *supra* note 4.

<sup>81</sup> Nande et al., *supra* note 39.

vaccinated residents. The poorer a ZIP code, the lower its vaccination rate—that disparity has grown since the beginning of April to almost 5 percent in mid-May.<sup>82</sup>

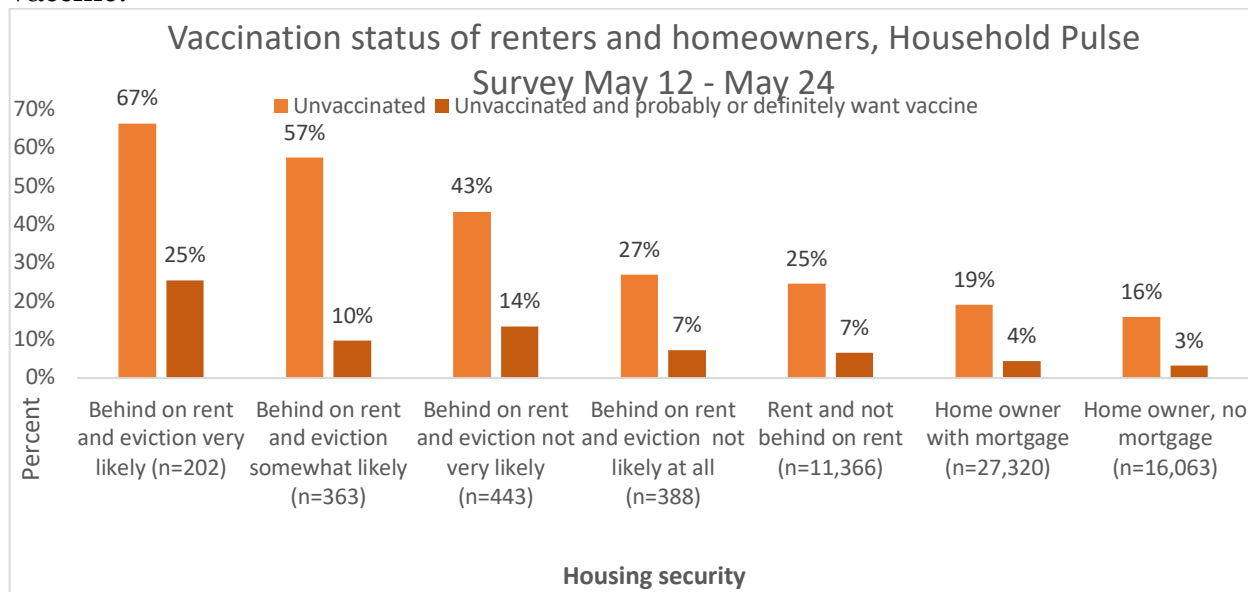
Figure 4. Evictions Are More Commonly Filed Where There Are Fewer Vaccinated Residents.<sup>83</sup>



<sup>82</sup> Amy Harmon & Josh Holder, *They Haven't Gotten a Covid Vaccine Yet. But They Aren't 'Hesitant' Either*, N.Y. TIMES (May 12, 2021) <https://nyti.ms/3wB8bGz>.

<sup>83</sup> Jin, Lemmerman & Hepburn, *supra* note 21.

Figure 5. Renters behind on rent are disproportionately unvaccinated—and want the vaccine.<sup>84</sup>



Barriers to vaccination prevent over 13 million Americans who want to receive the COVID-19 vaccine from being vaccinated.<sup>85</sup> Over half of these have no college education, have children in their household, or (just under half) earn less than \$74,999 a year.<sup>86</sup> A range of obstacles slows their vaccination: They are unable to get away from work, do not have a convenient vaccination site in their neighborhood, face some kind of language barrier, or did not have time or access to the Internet to schedule a vaccination.<sup>87</sup> The stress and displacement following eviction may make it difficult for families to make and keep vaccination appointments.

Groups that face the highest risk of eviction, like single mothers, have borne the brunt of the pandemic's economic consequences. School closure drove massive

<sup>84</sup> U.S. CENSUS BUREAU, *supra* note 7 at Housing Table 1b and Health Table 5.

<sup>85</sup> *Id.* at Health Table 5.

<sup>86</sup> *Id.*

<sup>87</sup> Harmon & Holder, *supra* note 82.

gaps in workforce participation based on gender—while all mothers lost jobs at roughly 150% the rate of fathers at the beginning of the pandemic, single mothers faced 200% job loss.<sup>88</sup> These inequities persist.<sup>89</sup> Single mothers with children face the highest rates of eviction.<sup>90</sup>

Even if vaccination barriers were removed, children under 12 remain ineligible for vaccines and at risk of COVID-19 infection. Almost four million children have tested positive for COVID-19—14.1% of all cases in the United States.<sup>91</sup> With one in five renter households with children behind on rent as of May 10,<sup>92</sup> children are especially vulnerable to eviction and its immediate and long-term health effects.

Barriers to vaccination persist in the areas with the highest eviction rates and increased risk of COVID-19 spread due to eviction—as well as the long-term, negative health impacts of eviction—remains high.

### **III. Eviction and COVID-19 Disproportionately Harm Marginalized**

#### **Groups**

##### *A. Evictions Disparately Affect Groups Based on Race, Gender, and Sexual Orientation*

Historic trends and recent data demonstrate that people of color are more likely to face eviction during the pandemic. The most comprehensive study of millions

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<sup>88</sup> Lauren Bauer, *Mothers are Being Left Behind in the Economic Recovery from COVID-19*, HAMILTON PROJECT (May 6, 2021) <https://bit.ly/2SpUgVIL>.

<sup>89</sup> *Id.*

<sup>90</sup> See Section III.A.

<sup>91</sup> AM. ACAD. OF PEDIATRICS, *Children and COVID-19: State-Level Data Report* (May 20, 2021) <https://bit.ly/34ny6FD>.

<sup>92</sup> *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*, CTR. ON BUDGET & POL'Y PRIORITIES, <https://bit.ly/34ojru0> (last updated May 20, 2021).

of eviction records in 39 states finds clear racial and gender disparities in eviction filings and judgments,<sup>93</sup> with Black renters facing eviction at the highest rates of any racial group.<sup>94</sup> The loss of employment or an unexpected emergency can precipitate housing instability. Over 70% of Black and Latinx adults entered the pandemic lacking emergency funds to cover three months of expenses compared to half of white adults.<sup>95</sup>

Evictions during the COVID-19 pandemic also pose a disproportionate threat to the LGBT community, and particularly LGBT people of color. Recent research shows that 12.4% of LGBT individuals report being laid-off during the pandemic, compared to 7.8% of non-LGBT respondents.<sup>96</sup> As a result of such economic insecurity, 19.9% of LGBT respondents report difficulty making rent or mortgage payments, compared to just 11.7% of non-LGBT individuals.<sup>97</sup> LGBT people of color are more than three times as likely to face difficulty making housing payments than their non-LGBT white peers.<sup>98</sup>

Without government interventions like the CDC order, the eviction crisis will be immediate and precipitous for millions of Americans. During this severe economic downturn, eviction may represent the end of financial stability, housing security, and

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<sup>93</sup> Hepburn, Louis & Desmond, *supra* note 47.

<sup>94</sup> Benjamin F. Teresa, RVA Eviction Lab, *The Geography of Eviction in Richmond: Beyond Poverty* (2017), <https://bit.ly/3iFEmxu>; Deena Greenberg, Carl Gershenson & Matthew Desmond, *Discrimination in Evictions: Empirical Evidence and Legal Challenges*, 51 HARV. C.R.-C.L. L. REV. 115 (2016).

<sup>95</sup> Mark Hugo Lopez et al., *Financial and Health Impacts of COVID-19 Vary Widely by Race and Ethnicity*, PEW RES. CTR. (May 5, 2020), <https://pewrsr.ch/3xltfIK>.

<sup>96</sup> Brad Sears, Kerith J. Conron & Andrew R. Flores, *The Impact of the Fall 2020 COVID-19 Surge on LGBT Adults in the US*, UCLA SCH. L. WILLIAMS INST. (Feb. 2021), [bit.ly/2QgiWd](https://bit.ly/2QgiWd).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

safety from COVID-19 infection and mortality for many families and historically marginalized communities.<sup>99</sup>

*B. COVID-19 Has Killed Black, Indigenous, and Latinx People at Higher Rates*

COVID-19 has disproportionately harmed people of color. The CDC reports Black, Indigenous Americans, and Hispanic/Latinx persons face an infection rate at least 1.1, 1.6, and 2.0 times the rate of non-Hispanic whites, respectively.<sup>100</sup> Black and Hispanic/Latinx persons are 2.9 and 3.3 times more likely to be hospitalized with COVID-19, respectively.<sup>101</sup> COVID-19 death rates are similarly stark: 1.9 times higher for Black people, 2.3 times for Hispanic and Latinx people,<sup>102</sup> and 2.4 times for Indigenous people than whites.<sup>103</sup> Of the population who died of between the ages of 35 and 44, almost half were Hispanic/Latinx and a quarter were Black.<sup>104</sup> Further, non-white children are dying from COVID-19 at over twice the rate of white children.<sup>105</sup>

These numbers are driven by deep underlying health disparities related to the inability to social-distance in many low-wage jobs, crowded living conditions due to poverty and eviction, bias among health care providers, disparate access to health

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<sup>99</sup> Benfer et al., *supra* note 35, Fig. 2.

<sup>100</sup> *COVID-19 Hospitalization and Death by Race/Ethnicity*, CTRS. FOR DISEASE CONTROL & PREV. (Apr. 16, 2021), <https://bit.ly/3mYlSeu>.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.*, APM RES. LAB (Mar. 5, 2021), <https://bit.ly/36K8ZPL> (comparing white death rate of 150 per 100,000 with Indigenous people death rate of 256 per 100,000).

<sup>104</sup> *500 US COVID-19 Deaths, Explained in 8 Charts and Maps*, VOX (Feb. 16, 2021), <https://bit.ly/3xpcqWW>.

<sup>105</sup> *Understanding the Data*, THE COVKID PROJECT (Mar. 6, 2021), <https://bit.ly/3nhkhBz>.

care, among other social determinants of health.<sup>106</sup> The available state-level data on racial disparities underscores these national disparities.<sup>107</sup> Eviction during the COVID-19 pandemic perpetuates health inequity among Black, Hispanic/Latinx people, and women.<sup>108</sup>

Protecting public health during this pandemic requires protecting those most likely to contract, spread, and die from COVID-19, especially people in poverty and people of color, who are more likely to face barriers to vaccination, be evicted, and suffer severe harm during the pandemic. Public health requires that *all* people are protected from COVID-19.

## CONCLUSION

The Applicants' request to overturn the District Court's stay should be denied.

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<sup>106</sup> Emily A. Benfer, Seema Mohapatra, Lindsay F. Wiley & Ruqaiijah Yearby, *Health Justice Strategies to Combat the Pandemic: Eliminating Discrimination, Poverty, and Health Inequity During and After COVID-19*, 19 YALE J. HEALTH POL'Y L. & ETHICS 122 (2020), <https://bit.ly/2GzVW9c>.

<sup>107</sup> See, e.g., *Racial Data Dashboard*, COVID TRACKING PROJECT, <https://bit.ly/2QvDF1t> (showing disproportionately higher rates of infection and death for non-whites relative to percentage of population by state).

<sup>108</sup> Benfer et al., *supra* note 35 at nn.82–96.

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GLMA: HEALTH PROFESSIONALS  
ADVANCING LGBTQ EQUALITY

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