

**CLEVELAND MUNICIPAL COURT
HOUSING DIVISION
CUYAHOGA COUNTY, OHIO
JUDGE W. MONÁ SCOTT**

STATE OF OHIO

CUYAHOGA COUNTY

CITY OF CLEVELAND

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ADMINISTRATIVE ORDER

AUGUST 27, 2021

**IN RE: SCOTUS VACATES CDC EVICTION MORATORIUM—HOUSING COURT’S PROCESS
FOR LIFTING CDC STAYS**

The Administrative Judge of Cleveland Municipal Court – Housing Division makes the following findings of fact:

1. Whereas, on September 4, 2020, the Center for Disease Control and Prevention (“CDC”) issued a nationwide eviction moratorium to slow the spread of COVID-19. *See* 85 FR 55292 (Sept. 4, 2020);
2. Whereas, on August 3, 2021, the CDC extended the eviction moratorium until October 3, 2021. *See* 86 FR 43244.
3. Whereas, on August 26, 2021, the Supreme Court of the United States struck down the CDC Eviction Moratorium, holding that the moratorium exceeds the CDC’s authority under §361 of the Public Health Service Act, 42 U.S.C. §264 (a). *Alabama Ass’n of Realtors v. Dep’t of Health & Hum. Servs.*, No. 21A23, 2021 WL 3783142 (U.S. Aug. 26, 2021).
4. Whereas, tenants who were previously “covered” under the moratorium are now subject to eviction, as the moratorium no longer applies.
5. Whereas, commencing August 27, 2021, eviction cases currently under a “CDC Stay” will be subject to judicial review in accordance with the procedures set forth herein.

THEREFORE, IT IS HEREBY ORDERED THAT AS OF AUGUST 27, 2021, THE COURT WILL IMPLEMENT THE FOLLOWING PROCEDURES TO LIFT ALL CDC STAYS:

1. Plaintiffs who wish to proceed with an eviction action currently under a CDC Stay, must file a “Motion to Lift the CDC Stay.” Attached to the motion shall be:
 - a. an Affidavit of Rental Assistance; and
 - b. updated rental registration if the registration on file *expired* during the pendency of the stay.

*******If an eviction case is NOT under a CDC Stay, then this filing requirement does not apply.
Plaintiffs are to proceed as usual in accordance with Cleveland Housing Court Local Rules**

http://clevelandmunicipalcourt.org/docs/default-source/cleveland-housing-court/2021-journalized-local-rules.pdf?sfvrsn=25fe413d_2). *****

2. The Affidavit of Rental Assistance shall provide the Court a status update on the tenant's payment history during the stay and any rental assistance applications. Particularly, whether or not the plaintiff/landlord has:
 - a. received any monies from Cleveland Housing Network ("CHN"), or any other rental assistance program, since the initial filing of the complaint—include the date of acceptance and amount;
 - b. been contacted by CHN, or any other rental assistance program, to submit the landlord's required W-9 documentation;
 - c. declined or refused to accept monies from any rental assistance program—include the agency and amount refused; and
 - d. received any partial payment from the tenant during the CDC Stay—include the date of acceptance and amount.

*****A sample motion and affidavit are attached hereto and available at <https://clevelandmunicipalcourt.org/housingcourt/forms>. *****

3. Once plaintiff files a Motion to Lift the CDC Stay, the Court shall determine the status of the case and enter a Magistrate's Order accordingly:
 - a. If the motion does not meet the filing requirements (i.e., fails to include an Affidavit of Rental Assistance or updated rental registration if the registration expired during the stay), then the motion will be *denied* with the opportunity to refile;
 - b. If the motion is granted, and the Court has already determined possession (first cause), then the Court will set a virtual status hearing prior to issuing the writ; or
 - c. If the motion is granted, and the Court has not determined possession, then the Court will set a virtual first cause hearing.
4. All virtual CDC Hearings will be set based on the number of motions filed each week and the date of the initial eviction filing. The earlier a complaint was filed, the sooner a hearing will be set. Parties will be notified of all future hearing dates by mail and provided instructions for virtual hearings.
5. In the event a party does not possess a compatible device for a virtual hearing, you must appear in-person at the Justice Center, 1200 Ontario Street, Cleveland, Ohio, Courtroom 3A, at the date and time provided.

This ORDER shall remain in effect until further Order of the Court.

IT IS SO ORDERED.

CLEVELAND MUNICIPAL COURT—HOUSING DIVISION



HON. W. MONA' SCOTT
ADMINISTRATIVE & HOUSING COURT JUDGE

08.31.2021
DATE

**CLEVELAND MUNICIPAL COURT
HOUSING DIVISION
CUYAHOGA COUNTY, OHIO
JUDGE W. MONÁ SCOTT**

_____ *
Plaintiff(s), * Case No. _____
v. *
_____ * **MOTION TO LIFT CDC STAY**
Defendant(s) *
*
*

Now comes Plaintiff _____, pro se, who respectfully moves this Honorable Court to lift the CDC Stay entered in the above captioned case and proceed with the eviction. The Supreme Court of the United States struck down the CDC Eviction Moratorium in *Alabama Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, No. 21A23, 2021 WL 3783142 (U.S. Aug. 26, 2021).

As such, Defendant(s) are no longer covered under the moratorium and have no right to possess the premises.

Attached for the Court's review is (check all that apply):

- _____ an Affidavit of Rental Assistance; and
- _____ an updated rental registration if the registration on file *expired* during the pendency of the CDC Stay.

Respectfully Submitted,

(Name)

(Address)

(Phone No.)

SERVICE CLAUSE

I (**check one**) ___ sent a copy of this motion by regular mail (**or**) ___ other _____ (**specify**) to ___ plaintiff(s)/counsel if plaintiff has counsel (**or**) ___ defendant(s)/counsel if defendant has counsel at the address of record on ___/___/___.

(Signature)

AFFIDAVIT OF RENTAL ASSISTANCE

Pursuant to Cleveland Housing Court Administrative Order dated August 27, 2021, plaintiffs/landlords seeking to lift a CDC Stay and proceed with an eviction must attest to the following.

I, _____, do hereby affirm and attest that I am the owner _____ or agent _____ of the residential unit located at _____, Cleveland, Ohio _____.
(Address) (Unit/apt#) (Zip Code)

I further affirm and attest to whether or not:

1. I have received any monies from Cleveland Housing Network (“CHN”), or any other rental assistance program, since the initial filing of the complaint. Yes _____ or No _____.

a. If “Yes,” include the date of acceptance and amount:

_____.

2. I have been contacted by CHN, or any other rental assistance program, to submit the landlord’s required W-9 documentation. Yes _____ or No _____.

3. I have declined or refused to accept monies from any rental assistance program. Yes _____ or No _____.

a. If “Yes,” include the agency and amount refused:

_____.

4. I have received any partial payment from the tenant during the CDC Stay. Yes _____ or No _____.

a. If “Yes,” include the date of acceptance and amount:

_____.

The information provided herein is true, correct and complete to the best of my knowledge. I understand that any false statement(s) contained herein could result in civil and/or criminal penalties.

Affiant’s signature

Affiant’s printed name

SWORN AND SUBSCRIBED before me on _____ day of _____, 20 ____.

Notary public.

My commission expires _____.