

NO. 21-1278

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United States Court of Appeals  
for the Eighth Circuit

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Heights Apartments, LLC and Walnut Trails, LLLP,  
*Plaintiffs – Appellants,*

vs.

Tim Walz, in his individual and official capacity as Governor of the State of  
Minnesota, and Keith Ellison, in his individual and official capacity as Attorney  
General of the State of Minnesota,  
*Defendants – Appellees.*

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Appeal from the United States District Court  
For the District of Minnesota  
Case No.: 0:20-cv-02051

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**MOTION FOR LEAVE TO FILE BRIEF ON BEHALF OF  
PROSPECTIVE *AMICI CURIAE* AMERICAN MEDICAL  
ASSOCIATION AND MINNESOTA MEDICAL ASSOCIATION IN  
SUPPORT OF DEFENDANTS – APPELLEES**

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Proposed *Amici Curiae*, the Minnesota Medical Association (“MMA”) and the American Medical Association (“AMA”), are organizations comprised of professionals dedicated to the promotion and maintenance of public health in the United States.<sup>1</sup> Due to the important public health and public policy issues in this case, the MMA and the AMA respectfully move the Court to permit the filing of an Amicus Brief pursuant to Rule 29 of the Federal Rules of Appellate Procedure.

The American Medical Association is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all U.S. physicians, residents and medical students are represented in the AMA’s policy making process. The objectives of the AMA are to promote the art and science of medicine and the betterment of public health. AMA members practice in every medical specialty area and in every state, including Minnesota.

The MMA is a non-profit professional association representing approximately 11,000 physicians, residents, and medical students in Minnesota. The MMA seeks to be the leading voice of medicine to make Minnesota the healthiest state and the best place to practice. The MMA advances health and

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<sup>1</sup> *Amici Curiae* represent that no party’s counsel authored this motion in whole or in part, and that no party, party’s counsel, or any other person contributed money that was intended to fund the preparation or submission of this motion or the corresponding brief should this motion be granted. *See Fed. R. App. P. 29(a)(4)(E)*.

health system change; fosters physician resilience, trust, and community; improves physician efficacy; and convenes physicians and partners to address emerging critical issues. For more than 165 years, the MMA and its members have worked together to safeguard the quality of medical care in Minnesota and to improve the health of all Minnesotans.

If this motion is granted, the AMA and the MMA would submit their brief on their own behalf and as representatives of the Litigation Center of the American Medical Association and the State Medical Societies. The Litigation Center is a coalition among the AMA and the medical societies of each state, plus the District of Columbia, whose purpose is to represent the viewpoint of organized medicine in the Courts.

The interests of the proposed *Amici* in this case are public in nature. The MMA and the AMA are significantly concerned about the public health ramifications that would result if the decision of the lower court were reversed and the eviction moratorium were overturned. As physicians, public health professionals, and public health organizations, the proposed *Amici* are already on the frontlines of treating, studying, and combating the COVID-19 pandemic. The proposed *Amici* are in a strong position to convey the significant public health concerns that will arise if tenants are evicted from their residences while large numbers of cases and deaths continue to grow. The AMA and the MMA have

closely studied the impact of COVID-19 and evaluated which public policies most effectively combat the transmission of the disease while minimizing the necessary disruption to the broader economic and social lives of Minnesotans and all U.S. residents. *Amici* support the important public health goal of preventing further spread of COVID-19 that Governor Walz’s executive order seeks to promote.

The attached proposed Brief provides important scientific and epidemiological background relevant to this case, most notably relating to: (1) the eviction and homelessness concerns that were existing in the State of Minnesota prior to the pandemic; (2) the degree to which the COVID-19 pandemic has made the housing crisis in Minnesota worse; (3) how the eviction moratorium helps slow the spread of COVID-19 and promotes public health; and (4) how evictions resulting from the potential overturning of the eviction moratorium would disproportionately harm high risk and underserved communities, including communities of color.

*Amici* believe that by identifying these issues and sharing the scientific research that supports these conclusions, they will aid the Court in its evaluation of the reasonableness and constitutionality of the eviction moratorium.

## **CONCLUSION**

For the reasons stated above, proposed *Amici Curiae* (the Minnesota Medical Association and the American Medical Association) respectfully request that the Court permit them to appear in this case and file their proposed Brief.

**BASSFORD REMELE**  
*A Professional Association*

Dated: May 10, 2021

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**CERTIFICATE OF COMPLIANCE**

Counsel for *Amici Curiae* certifies that this motion complies with the type-volume limitation of Rule 27 of the Federal Rules of Appellate Procedure because it contains 706 words, based on the “Word Count” feature of Microsoft Word.

Counsel also certifies that this document has been prepared in a proportionally spaced typeface using 14 pt. Times New Roman in Microsoft Word.

Dated: May 10, 2021

s/ Mark R. Whitmore  
Mark R. Whitmore (MN #232439)

**Heights Apartments, LLC v. State of Minnesota**  
**Case No. 21-1278**

**CERTIFICATE OF SERVICE**  
**FOR DOCUMENTS FILED USING CM/ECF**

I hereby certify that on May 10, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

Dated: May 10, 2021

s/ Mark R. Whitmore  
Mark R. Whitmore (MN #232439)

In the  
United States Court of Appeals  
for the Eighth Circuit

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Heights Apartments, LLC and Walnut Trails, LLLP,

*Plaintiffs - Appellants,*

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Tim Walz, in his individual and official capacity as Governor of the State of  
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*Defendants – Appellees.*

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Appeal from the United States District Court  
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Case No.: 0:20-cv-02051

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**BRIEF OF AMICI CURIAE AMERICAN MEDICAL ASSOCIATION AND THE  
MINNESOTA MEDICAL ASSOCIATION IN SUPPORT OF  
DEFENDANTS – APPELLEES**

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## **CORPORATE DISCLOSURE**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1A of the Eighth Circuit Rules of Appellate Procedure, neither the American Medical Association nor the Minnesota Medical Association is a wholly owned subsidiary of any parent corporation or any publicly held corporation that owns 10% or more of its stock.

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**STATEMENT OF INTEREST OF *AMICI CURIAE***

As set forth more fully in the Motion seeking to submit an *amicus* brief in this case, the American Medical Association (“AMA”) and the Minnesota Medical Association (“MMA”), are organizations and professionals dedicated to the promotion and maintenance of public health in the United States.<sup>1</sup> The objectives of the AMA are to promote the art and science of medicine and the betterment of public health. The MMA is a non-profit professional association that seeks to be the leading voice of medicine to make Minnesota the healthiest state and the best place to practice.

By filing this brief, *Amici* seek to highlight the role of eviction moratoriums in stemming the impact of the COVID-19 pandemic and protecting public health. *Amici* have closely studied the impact of COVID-19 and evaluated which public policies most effectively combat transmission of the disease while minimizing the necessary disruption to the country’s broader economic and social life. *Amici* firmly believe that eviction moratoria, such as the one at issue in this case, are essential to help reduce the spread of COVID-19.

While progress has been made in the development and distribution of COVID-19 vaccines, the pandemic remains a significant threat to public health.

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<sup>1</sup> *Amici Curiae* represent that no party’s counsel authored this Brief in whole or in part, that no party, party’s counsel, or any other person contributed money that was intended to fund preparation or submission of this brief. *See* Fed. R. App. P. 29(a)(4)(E).

Eviction moratoria help prevent the COVID-19 pandemic from further spread. *Amici* agree that the Executive Orders issued by Governor Walz remain an essential tool to safeguard the public health and to prevent the transmission of COVID-19 throughout Minnesota. *Amici* believe Governor Walz's eviction moratorium should remain in place to prevent further spread of COVID-19 and encourage the Court to affirm the District Court's Order dismissing this action.

### **SUMMARY OF ARGUMENT**

Eviction moratoria, like the one issued by Governor Walz, help reduce the spread of COVID-19. Across the United States, the COVID-19 pandemic has greatly exacerbated existing shortages and inequities in the housing rental market, pushing more people to the financial brink, and increasing their risk of being ejected from their homes. Due to the ongoing economic volatility and widespread job loss the pandemic has created, millions of renters, most of whom do not possess savings designated for emergency situations, are unable to make rent payments. In short, *Amici* believe the affordable housing crisis that existed prior to the pandemic left Minnesota and the rest of the country in a precarious situation that posed great risk to public health. The economic downturn created by the pandemic has only made that situation worse, resulting in job losses and challenges for low-income families to pay rent. From a public health perspective, *Amici* believe that forcing those in economic jeopardy out of their residences will

exacerbate the pandemic as families are required to move into shelters or live with others in a manner inconsistent with the social distancing and self-quarantining that have helped battle the pandemic.

## ARGUMENT

### **I. MASS EVICTIONS ARE LIKELY TO OCCUR IN MINNESOTA IF THE EVICTION MORATORIUM IS OVERTURNED**

#### **A. Throughout Minnesota, Housing Equity and Security were Already Distressed Before the Onset of the Pandemic.**

COVID-19 struck the United States when millions of adults and children already lived perilously close to eviction. If the current eviction moratoria that exist across the country should be overturned, some estimate that 30-40 million people will face eviction from their homes in short order.<sup>2</sup> Even prior to the onset of COVID-19, 47.5% of all renter households in the country were “rental cost-burdened,” meaning that, within those households, over 30% of net income went towards rent payments.<sup>3</sup> In 2018, it was reported that 10.9 million renter households spent over 50% of net income on rent and one quarter of households living below the poverty line spent upwards of 70% on rent.<sup>4</sup> In other words, the situation was distressed before COVID-19 put millions of people out of work.

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<sup>2</sup> Benfer EA, Robinson DB, Butler S, et al., *The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk*, The Aspen Institute (August 7, 2020), <http://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk>.

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

<sup>4</sup> *Id.*



Minnesota was no different. In 2019 the state had 611,160 renter households.<sup>5</sup> Census Bureau data from October 2020 already showed that of the 666,277 adult tenants surveyed in Minnesota, 245,003 (36.8%) reported they were unemployed, while 334,258 (50.2%) reported loss of employment income.<sup>6</sup> Another 57,509 tenants (8.6%) reported they were behind on rent payments.<sup>7</sup> These concerning numbers have continued. When the same survey was completed in late March 2021, 35.4% of those responding were unemployed, and 51.5% reported a loss in income.<sup>8</sup> In October, 2020, only 52.5% of Minnesota tenants reported high confidence in their ability to pay rent, compared to 56.2% in March 2021.<sup>9</sup> Similarly, in October 2020, 124,628 (18.7%) reported slight or no confidence in their ability to pay rent compared to 19.8% in March, 2021.<sup>10</sup>

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<sup>5</sup> State of the State's Housing 2019 – Biannual Report of the Minnesota Housing Partnership at 4, 6, [http://www.mhponline.org/images/stories/images/research/SOTS-2019/2019FullSOTSPrint\\_Final.pdf](http://www.mhponline.org/images/stories/images/research/SOTS-2019/2019FullSOTSPrint_Final.pdf).

<sup>6</sup> US Dept. of Commerce, *Census Bureau Pulse Survey*, Housing Tables, Table 1b. Last Month's Payment Status for Renter Occupied Housing Units, by Select Characteristics: Minnesota (Oct. 21, 2020), <https://www.census.gov/data/tables/2020/demo/hhp/hhp16.html#tables>.

<sup>7</sup> *Id.*

<sup>8</sup> See [www.census.gov/data/tables/2021/demo/hhp/hhp27.html](https://www.census.gov/data/tables/2021/demo/hhp/hhp27.html), Table 1b.

<sup>9</sup> US Dept. of Commerce, *Census Bureau Pulse Survey*, Housing Tables, Table 2b. Confidence in Ability to Make Next Month's Payment for Renter Occupied Housing Units, Select Characteristics: Minnesota, (Oct. 21, 2020), <https://www.census.gov/data/tables/2020/demo/hhp/hhp16.html#tables>.

<sup>10</sup> *Id.*

Given the still-recovering economy, estimates of the number of Minnesota evictions that would occur if the moratorium were overturned, remain concerning. The Aspen Institute concluded that as of December 31, 2020, 30% of all Minnesota renters were at risk of eviction, which would result in 281,085 tenants being evicted.<sup>11</sup> Another estimate found that as of January 2021, some 92,000-199,000 households were at risk of eviction, and that between 32,100 and 69,800 households faced housing disruption or eviction if the moratorium were lifted.<sup>12</sup>

A wave of evictions would disproportionately impact communities of color who are more likely to rent than any other group. Minnesota Housing reports that Minnesota has the “fourth worst homeownership disparity for households of color and indigenous communities.”<sup>13</sup> While Minnesota is comprised of approximately 20% of people of color,<sup>14</sup> 58% of that group are renters.<sup>15</sup>

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<sup>11</sup> K. McKay, Z. Newmann & Gilman, *20 Million Renters are at Risk of Eviction; Policymakers Must Act Now to Mitigate Widespread Hardship*, The Aspen Institute (June 19, 2020), <https://www.aspeninstitute.org/blog/posts/20-million-renters-are-at-risk-of-eviction/>.

<sup>12</sup> Stout Data: *Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction*, <https://www.ncsha.org/resource/stout-rental-and-eviction-live-data/>.

<sup>13</sup> Minnesota Housing, *2020-2021 Affordable Housing Plan*, <https://www.mnhousing.gov/sites/np/plans> at p. 4.

<sup>14</sup> Minnesota State Demographic Center, *Age, Race & Ethnicity*, <https://mn.gov/admin/demography/data-by-topic/age-race-ethnicity/>.

<sup>15</sup> Minnesota Housing Partnership, *State of the State's Housing 2019: Biannual Report of the Minnesota Housing Partnership “2019”* at 8, [http://www.mhponline.org/images/stories/images/research/SOTS-2019/2019FullSOTSPrint\\_Final.pdf](http://www.mhponline.org/images/stories/images/research/SOTS-2019/2019FullSOTSPrint_Final.pdf).

**B. The Minnesota Economy Has Not Fully Recovered and Tenants Remain on the Brink of Eviction.**

While certain aspects of the economy have improved as the pandemic has gone on, Minnesotans still struggle to make ends meet. Minnesota's seasonally adjusted unemployment rate in March 2021 was 4.2%, up from 3.5% at the start of the pandemic in March 2020.<sup>16</sup> While Minnesota's overall unemployment rate has significantly decreased since ballooning to 11.3% in May 2020 and 7.6% in July 2020, Minnesota's renters are still trying to catch up from the income lost during the pandemic.

Unemployment rates for Black and Hispanic Minnesotans have increased disproportionately to those of Minnesotans as a whole. While the unemployment rate for Black Minnesotans was 4.5% in March 2020, it remained *twice as high* in March 2021, with a 9.0% unemployment rate in that demographic.<sup>17</sup> The unemployment rate for Hispanics also shot up, increasing from 4.6% in March 2020 to 7.7% in March, 2021.<sup>18</sup>

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<sup>16</sup> *State and National Employment and Unemployment Current Data*, Minnesota Department of Employment and Economic Development, <https://mn.gov/deed/data/current-econ-highlights/alternative-unemployment.jsp> (last visited May 5, 2021).

<sup>17</sup> *State and National Employment and Unemployment Current Data*, Minnesota Department of Employment and Economic Development, <https://mn.gov/deed/data/current-econ-highlights/alternative-unemployment.jsp> (last viewed May 5, 2021).

<sup>18</sup> *Id.*

It also is taking longer for Minnesotans to return to work. This is particularly evident in the long-term unemployment rates of Minnesotans who have been unemployed for more than 27 weeks. In March 2021 there were 31,900 long-term unemployed Minnesotans, compared to 12,700 in March 2020, an increase of more than 150%.<sup>19</sup> The median duration of unemployment increased from 7.6 weeks in March 2020 to 15.6 weeks in March 2021.<sup>20</sup> In other words, the ability of Minnesota's renters to pay bills in the midst of the pandemic continues to worsen.

In short, tens of thousands of Minnesotans were struggling to make rent payments prior to the pandemic. Unfortunately, the pandemic has only worsened the situation such that many more Minnesotans, particularly people of color, are closer to eviction. Without the current eviction moratorium, under any estimate, tens of thousands of Minnesotans will be left with nowhere to stay. While that would further any public health crisis, at a time in which social distancing and self-isolation are critical to society's ability to defeat the pandemic, forcing people to over-inhabit others' dwellings or to move to already-crowded shelters or residences where social distancing is not feasible, would only increase the public health crisis and further the spread of COVID-19.

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<sup>19</sup> *State and National Employment and Unemployment Current Data*, Minnesota Department of Employment and Economic Development, <https://mn.gov/deed/data/current-econ-highlights/alternative-unemployment.jsp> (last viewed May 5, 2021).

<sup>20</sup> *Id.*

## **II. BY PREVENTING ADDITIONAL HOMELESSNESS AND GROUP HABITATION, THE EVICTION MORATORIUM HELPS SLOW THE SPREAD OF COVID-19 AND PROMOTE PUBLIC HEALTH**

### **A. The CDC Supports Eviction Moratoria.**

Although eviction moratoria benefit the public health in normal times, they remain absolutely essential during the COVID-19 pandemic. The Centers for Disease Control (“CDC”) has been very clear in defining the risks to public health stemming from additional homelessness during the pandemic.<sup>21</sup> For that reason, the CDC has issued several orders demanding a temporary halt in residential evictions. On March 31, 2021, the CDC issued its most recent order in support of a moratorium on evictions. That Order became effective on April 1, 2021 and extended the temporary halt in residential evictions through June 30, 2021. *See* 86 Fed. Reg. 16731-01 (March 31, 2021). *Amici* support this Order and its rationale.

The CDC’s March Order identified four primary purposes behind its decision: (1) To mitigate the spread of COVID-19 within crowded, congregate, or shared living settings, or through unsheltered homelessness; (2) To mitigate the further spread of COVID-19 between states and territories; (3) To mitigate the further spread of COVID-19 by temporarily suspending the eviction of covered

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<sup>21</sup> Although a few federal district courts from other jurisdictions have found that the CDC exceeded its authority in issuing its moratorium, the federal government has continued to defend the need for the moratorium and is appealing those decisions. Regardless, the thoughtful medical rationale behind the CDC’s decision making remains relevant and poignant to the issues in this case

persons from residential property for nonpayment of rent; and (4) To support response efforts to COVID-19. *See* 86 Fed. Reg. 16732-16733.

While recognizing the expansion in the distribution of vaccines and the efforts that have been made to defeat the pandemic, the CDC noted that as of March 25, 2021, there had already been almost 125 million cases of COVID-19 globally which resulted in more than 2,700,000 deaths. 86 Fed. Reg. at 16732. The CDC data revealed that more than 29,700,000 cases of COVID-19 have been identified in the United States and that more than 540,000 deaths had already occurred. *Id.* The CDC explained that while transmission had decreased since a peak in January 2021, the daily incidence of new COVID-19 cases between February 25 and March 21, 2021 remained twice as high as the initial peak in April 2020, and comparable to the second peak of transmissions in July 2020. *Id.* The CDC recognized that even as of late March 2021, 37% of counties in the United States still were categorized as experiencing “high” transmission (over 100 cases per 100,000 people or greater than 10% test positivity) and an additional 30% of counties were still categorized as experiencing “substantial” transmission rates (50-99.99 cases per 100,000 people or 8-9.99% test positivity). *Id.* The CDC noted that no counties were considered free of spread and only eight percent of counties were considered to have low transmission rates. In other words, the pandemic remains a very serious threat to public health in Minnesota and throughout the country.

Recognizing the ongoing infection and positivity test rates, the CDC decided that extending its moratorium on residential evictions is “still necessary, especially given that previous plateaus have led to secondary and tertiary phases of acceleration. Furthermore, the number of deaths per day continues at levels comparable to, or higher than, when the CDC originally issued a similar order in September 2020.” *Id.* At 16733. *Amici* concur with the recommendations from the CDC on this issue.

The data and recommendations from the CDC make clear the pandemic is far from over. Basic principles of social distancing and self-isolation remain critical to the protection of the public health. Given the economic challenges on top of an already dangerous housing crisis, the protection of the public health through Governor Walz’s eviction moratorium remains critical. *Amici* believe that without moratoria like that at issue in this case, those who are being evicted will be placed into a risky situation for both themselves and society. Evicted people will be forced to live with family or friends, stay in shelters and move quickly between different living situations. Despite their best efforts, data shows that persons in those circumstances will be subjecting themselves and others to the virus and its spread.

**B. Overturning the Eviction Moratorium Would Increase Infection and Cost the Lives Minnesotans.**

Minnesota’s moratorium on evictions will continue to help prevent the spread of COVID-19 throughout Minnesota. Without such protections, there will

likely be increases in interpersonal contact, overcrowding of residences and homeless shelters, homelessness, and housing insecurity, further inhibiting public efforts to stop the spread of the virus through social distancing and self-quarantine.<sup>22</sup>

The CDC Order banning residential evictions during the pandemic cited a recent Census Bureau American Housing Survey which revealed that 32% of renters reported that if evicted, they would move in with friends or family. 86 Fed. Reg. 16734. This would increase crowding at a time when distancing is vital. Scientific data supports this concern as the CDC found that lifting eviction moratoria led to a 40% increased risk of contracting COVID-19 among people who moved in with friends and family following eviction. *Id.* This is consistent with the CDC's finding that counties with the highest proportion of crowded households experienced mortality rates 2.6 times greater than those counties with the lowest proportion of crowded households. *Id.* According to the CDC, the secondary attack rate in households is estimated to be 17%, and household contacts are estimated to be six times more likely to become infected by a case of COVID-19 than other close contacts. *Id.*

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<sup>22</sup> Further, eviction has been shown to decrease an individual's access to primary and specialty medical care. *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 & Behavior, 678, 681, 683 (2017).



Even seemingly minor alterations to a person’s housing situation can correlate to substantial increases in the rate of infectious disease transmission,<sup>23</sup> and past research has demonstrated that decreases in personal space – a near inevitability when an evicted person is forced to relocate – can lead to much greater exposure risk. Indeed, during the influenza pandemic of 1918 known as the “Spanish Flu”, it was determined that the change between 78 sq. feet and 45 sq. feet of living space per person correlated with an increase in the rate of infection among residents by a factor of 10.<sup>24</sup>

Another study focused on the impact of lifting eviction moratoria during the pandemic found that ten weeks after lifting a moratorium, the incidence of COVID-19 cases and COVID-19 mortality increased 1.6 times compared to those states whose moratoria remained in place, and increased 2.1 times sixteen weeks

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<sup>23</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 (2015). 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 Bio. & Med. Modeling 1, 2017.

<sup>24</sup> C. Andrew Aligne, *Overcrowding and Mortality During the Influenza Pandemic of 1918: Evidence from the U.S. Army Camp A.A. Humphreys, Virginia*, 106 Am. J. Pub. Health 642 (2016).

after lifting their moratoria.<sup>25</sup> *Amici* fear that a premature end to Minnesota's eviction moratorium would yield similar, tragic results.

Removing eviction protections would inevitably lead to further spread of COVID-19. A team of epidemiologists at the University of Pennsylvania determined that a monthly eviction rate of .25% of all renter households affected an additional 1.5% of the population over the no-eviction baseline, and an eviction rate of 2% infected an additional 13% of the population.<sup>26</sup> Another study conducted by epidemiologists at UCLA and Johns Hopkins found that if states had removed their eviction moratoria in the initial months of March through September, there would have been up to 433,700 additional COVID infections in the country and 10,700 additional COVID related deaths.<sup>27</sup> Due in large part to its sizable population, if the moratorium had been lifted in Texas alone, there would

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<sup>25</sup> Kathryn M. Leifheit, et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*,

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3739576](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576).

<sup>26</sup> *Preliminary Research Shows Evictions Contribute to Spread of COVID-19*, National Low Income Housing Coalition (Sept. 8, 2020).

<sup>27</sup> Annie Nova, *Here's How the Eviction Crisis Could Increase the Spread of COVID in the U.S.*, CNBC (Dec. 11, 2020),

<https://www.cnbc.com/2020/12/11/the-eviction-crisis-could-increase-the-spread-of-covid-in-the-us.html>. The numbers in the study were determined by looking at data from the 27 states that lifted eviction moratoriums during their study and calculating incident rates at 7 weeks, 10 weeks, and 16 weeks. See Kathryn M. Leifheit, et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3739576](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576).

have been an estimated 150,000 new infections and nearly 5,000 additional deaths.<sup>28</sup>

Concerns about the impact of evictions on the spread of COVID-19 have proven factual. For example, when North Carolina allowed its statewide eviction moratorium to lapse for over two months, a report determined that subsequent evictions resulted in 15,690 new COVID-19 infections and 304 new deaths.<sup>29</sup>

*Amici* believe that from a public health perspective, the medical data clearly supports Governor Walz's decision to extend the eviction moratorium. Evicting additional Minnesotans, some of whom would be forced to live with friends or family in compressed spaces during the midst of the pandemic, would eliminate the great progress that has been made toward defeating the virus. Compressing evicted Minnesotans into shelters or spaces with friends and family would also violate principles of social distancing. Absent social distancing, the communities within Minnesota that are already at risk of disease and other public health concerns would only be threatened further. But overturning the moratorium on evictions

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<sup>28</sup> *Id.*

<sup>29</sup> Ben Sessoms, *NC Saw More Than 15,000 COVID-19 Cases During the Summer Due to Evictions, Study Says*, News & Observer (Dec. 8, 2020), <https://www.newsobserver.com/news/local/article247668905.html>, discussing Kathryn M. Leifheit, et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3739576](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576).

would impact *all* Minnesotans as an increase in positivity and death rates in one community will multiply the numbers for Minnesotans as a whole.

### **CONCLUSION**

As *amici*, the Minnesota Medical Association and the American Medical Association urge this Court to affirm the decision of the district court and not overturn the executive order signed by Governor Walz limiting evictions. A reversal would jeopardize the health of many Minnesotans, would undercut the advances being made in combatting the pandemic, and cause the virus to spread further. We urge this Court to affirm the decision below.

**BASSFORD REMELE**  
*A Professional Association*

Dated: May 10, 2021

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This brief complies with the type-volume limitations of Fed. R. App. P. 23(a)(7)(B)(i) because it contains 3,305 words, excluding the parts of the brief excepted by Fed. R. App. P. 32(a)(7)(B)(iii).

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Dated: May 10, 2021

s/ Mark R. Whitmore  
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Pursuant to Rule 28A(h)(2) of the Eighth Circuit Rules of Appellate Procedure, the undersigned counsel for Amici Curiae American Medical Association and Minnesota Medical Association certifies that the attached Amici Curiae Brief has been scanned for computer viruses and is virus-free.

Dated: May 10, 2021

s/ Mark R. Whitmore  
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**Heights Apartments, LLC v. State of Minnesota  
Case No. 21-1278**

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