

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SKYWORKS, LLC, *et al.*

Plaintiffs

v.

CENTERS FOR DISEASE CONTROL AND
PREVENTION, *et al.*

Defendants.

Case No. 5:20-cv-2407-JRA

Judge John R. Adams

**BRIEF OF *AMICI CURIAE* OF THE AMERICAN ACADEMY OF
PEDIATRICS; AMERICAN MEDICAL ASSOCIATION; CHILDREN’S
HEALTHWATCH; COALITION ON HOMELESSNESS AND HOUSING IN OHIO;
THE GEORGE CONSORTIUM;
GLMA: HEALTH PROFESSIONALS ADVANCING LGBTQ EQUALITY;
NATIONAL MEDICAL ASSOCIATION; OHIO CHAPTER OF THE
AMERICAN ACADEMY OF PEDIATRICS; PUBLIC HEALTH LAW WATCH; EMILY
A. BENFER; MATTHEW DESMOND; GREGG GONSALVES; PETER HEPBURN;
DANYA A. KEENE; KATHRYN M. LEIFHEIT; MICHAEL Z. LEVY; SABRIYA A.
LINTON; CRAIG E. POLLACK; JULIA RAIFMAN; GABRIEL L. SCHWARTZ; and
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STATEMENT OF INTEREST OF *AMICI CURIAE*

The 21 *amici* include national and local public health, medical, social science and legal associations and experts who, based on their extensive research and work in these areas, recognize that housing is critical to protecting public health, preventing the spread of COVID-19, and ensuring health equity during the pandemic.

SUMMARY OF ARGUMENT

Eviction moratoria help reduce the spread of COVID-19. Millions of Americans entered the COVID-19 pandemic vulnerable to eviction due to a preexisting affordable housing crisis. The economic recession and widespread job loss resulting from pandemic mitigation strategies increased hardship among renters, who often lack savings to cover expenses during an emergency. COVID-19-related job and wage loss left millions unable to afford rent. This has created an unprecedented eviction crisis that disproportionately affects low-income populations and communities of color and increases COVID-19 infection and mortality. The Centers for Disease Control and Prevention (“CDC”) issued an agency order (“CDC Order”) to prevent evictions from spreading COVID-19 and worsening public health.

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 moratoria can effectively slow the spread of COVID-19. Without effectively enforced moratoria, evictions will likely increase to unseen heights, facilitating the transmission of infectious diseases, including COVID-19. Preliminary research and modeling demonstrate that eviction is associated with increased COVID-19 infection and mortality rates. The consequences of eviction (such as overcrowding, homelessness, and housing instability) increase contact with others and hinder

compliance with the key strategies to contain COVID-19, including social distancing, self-quarantining, and hand hygiene.

The people most at risk of eviction are particularly vulnerable to COVID-19. Low-income populations are often exposed to social determinants of poor health and have chronic illness or disability and, as such, are at risk of serious complications or death as a result of COVID-19. Protecting public health during the pandemic requires protecting those most likely to contract, spread, and die from COVID-19. These deleterious health impacts and the spread of COVID-19 are tied to the act of eviction itself and are likely quite preventable if evictions are thoroughly halted under the CDC's moratorium at this critical turning point in the pandemic's course.

ARGUMENT

I. Mass Evictions are Likely in Ohio & Nationwide without the CDC Order

A. *Americans Faced Widespread Housing Insecurity Before the Pandemic*

COVID-19 struck the United States when millions of adults and children already lived perilously close to eviction. Nationally, 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.¹ The cost burden is even greater among households in poverty: one out of four spent over 70% of their income on rent in 2018.² In Ohio, 29.5% of renter households were rent burdened—defined as spending between 30-50% of their income on housing—before the

¹ 10.9 million renter households (25% of all renter households) were spending over 50% of their income on rent each month in 2018. *America's Rental Housing 2020*, JOINT CTR. FOR HOUSING STUD. OF HARV. U. 4, 26 (2020), <https://bit.ly/3iJ95tx>.

² *American Housing Survey*, U.S. CENSUS BUREAU (2020), <https://bit.ly/3iFzF6H> (reflecting fraction of renters paying between 70% and 99% of their monthly household income as housing costs, among renters earning < 100% FPL who report positive income, nonzero rent, and who do not report paying 100% or more of total household income as total housing cost) (the latter category may include some extremely rent-burdened individuals—for example, a recently unemployed individual living off savings—but likely also includes a large number of individuals who are assisted by subsidies or other forms of support, as well as response errors).

pandemic.³ In 2016, the last available year of nationwide eviction data, 3.7 million evictions were filed nationally,⁴ with 57,980 of those filings occurring in Ohio alone.⁵ This led Ohio to a 3.49% eviction rate, 1.15% above the national rate.⁶

Compounding this material disadvantage, rent-burdened households often lack economic security or safety net. With the loss of 4 million affordable housing units from 2011-2017,⁷ and a dearth of 7 million affordable units for the lowest-income renters,⁸ many renters entered the pandemic vulnerable to eviction. As a result of the preexisting housing crisis, 10,345 Ohioans experienced homeless in 2019.⁹

B. The COVID-19 Pandemic Increased and Worsened Housing Precarity

In July 2020, 50 million renters reported living in households that suffered COVID-19-related job or wage loss, with the highest loss among low-income households.¹⁰ Between April and July, the national unemployment rate fluctuated between 10.2% and 14.7%; it fell to 6.9% in October.¹¹ By comparison, unemployment peaked at 10.0% during the Great Recession.¹²

³ *Map and Data*, EVICTION LAB, <http://evictionlab.org/map/#/2016> (last visited Nov. 12, 2020). (based on U.S. Census 2011-2016 American Community Survey).

⁴ *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>.

⁵ *Map and Data*, *supra* note 1.

⁶ *Id.*

⁷ *The State of the Nation's Housing 2019*, JOINT CTR. FOR HOUSING STUD. OF HARV. U. 4 (2019), <https://bit.ly/2GGa9RV>.

⁸ *The Gap: A Shortage of Affordable Homes*, NAT'L LOW INCOME HOUSING COALITION 1 (Mar. 2020), <https://bit.ly/3d9FOa9>.

⁹ *Total People Experiencing Homelessness*, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS (last visited Nov. 12, 2020), <http://www.usich.gov/homelessness-statistics> (the value for “total people experiencing homelessness” in 2019 for Ohio).

¹⁰ Elizabeth Kneebone & Cecile Murray, *Estimating COVID-19's Near-Term Impact on Renters*, U.C. BERKELEY TURNER CNT. FOR HOUSING INNOVATION (Apr. 24, 2020), <https://bit.ly/34DIHgx>.

¹¹ *The Employment Situation—July 2020*, U.S. BUREAU OF LAB. STAT. *14 (Aug. 7, 2020), <https://bit.ly/3nuwulQ> (May, June, and July figures); *The Employment Situation—October 2020*, U.S. BUREAU OF LAB. STAT. *14 (Nov. 6, 2020), <https://bit.ly/38CkXvK>.

¹² *Spotlight on Statistics: The Recession of 2007-2009*, U.S. BUREAU OF LAB. STAT., 2 (Feb. 2012), <https://bit.ly/2GuBoio>.

Unemployment rates in Ohio, which remain significantly above historic averages, increased by 3.8% from August 2019 to August 2020.¹³ Federal extended unemployment benefits provided crucial relief to families and individuals who suffered job loss and enabled them to temporarily pay rent. However, with the expiration of these benefits in July, unemployed renters now lack funds for basic necessities, like food, clothing, and shelter, and are at even greater risk of financial constraints leading to eviction and associated harms.

Nationwide, job loss is affecting Americans at significantly different rates based on race, ethnicity, class, disability, sexuality, and geography. Sixty-one percent of Hispanic/Latinx Americans and 44% of Black Americans said that they, or someone in their household, had experienced job or wage loss due to the coronavirus outbreak, compared with an already high 38% of white Americans.¹⁴

Without assistance or unemployment insurance, many renters are stretched to the breaking point. Half of the 20.8 million rent-burdened households had less than \$10 dollars in savings before the pandemic.¹⁵ Those with more resources have resorted to depleting savings, borrowing from

¹³ See *Over-the-Year Change in Unemployment Rates for States*, U.S. BUREAU OF LAB. STAT., <https://bit.ly/33H4XG7> (last modified Sept. 18, 2020).

¹⁴ Kim Parker, Juliana Menasce Horowitz & Anna Brown, *About Half of Lower-Income Americans Report Household Job or Wage Loss Due to COVID-19*, PEW RES. CTR. (Apr. 21, 2020), <https://pewrsr.ch/30KzSPX>. In addition, people with disabilities have historically higher rates of unemployment than the general population. *Persons with a Disability: Labor Force Characteristics—2019*, U.S. BUREAU OF LAB. STAT. *1 (Feb. 26, 2020), <https://bit.ly/34EXgPN>. Brodie Fraser et al., *LGBTIQ+ Homelessness: A Review of the Literature*, 16 INT’L J. ENV’L RES. & PUB. HEALTH 1, 1 (2019); Maya Brennan, Ally Livingston & Veronica Gaitán, *Five Facts About Housing Access for LGBTQ People*, URB. INST. (June 13, 2018), <https://urbn.is/34AmgI1>. Undocumented immigrants do not qualify for unemployment insurance or stimulus. Many rural communities experience acute poverty and lack affordable housing, supportive resources, access to employment. S.M. Ramirez & D. Villareja, *Poverty, Housing, & the Rural Slum: Policies & the Production of Inequities, Past and Present*, 102 AM. J. PUB. HEALTH 1164 (2012).

¹⁵ PEW CHARITABLE TRS., *AMERICAN FAMILIES FACE A GROWING RENT BURDEN* 5 (2018), <https://bit.ly/2FcNiMZ>.

family and friends, taking out loans, and paying rent with credit cards.¹⁶ Renters even reduced their food budgets in order to pay rent. The proportion of Black and Hispanic/Latinx people suffering food insecurity is between 150–220% of food insecurity among white people in Ohio.¹⁷

In a U.S. Census Bureau survey of Ohio renters in October, 27.86% of households with children had slight or no confidence in their ability to pay next month's rent, and thus are at heightened risk of eviction.¹⁸ A higher proportion of these families were Black than white: 59.39% compared to an already high 23.85%.¹⁹

C. Without Legal Protections from Eviction, Filing Rates Increase

The Eviction Lab at Princeton University is the only source of nationwide eviction data; the latest data on eviction filings in all states is from 2016. During the pandemic, the Eviction Lab has tracked the ebbs and flows in real-time eviction filings in 25 cities.²⁰ Based on this data, the Eviction Lab has identified three drivers of the COVID-19 eviction crisis. First, a significant number of property owners use the eviction process as a rent collection tool, rather than a means of removing tenants for other reasons.²¹ Second, many tenants are (and have historically been)

¹⁶ In April, nationally, there was a 30% increase in credit card usage to pay rent, followed by a further 20% increase in May. Rejane Frederick & Jaboa Lake, *Kicking Folks Out While They're Down: How the Premature Lifting of Coronavirus Restrictions Is Increasing Evictions and Worsening the Homelessness Crisis*, CTR. FOR AM. PROGRESS (July 27, 2020, 9:07 AM), <https://ampr.gs/2SDVBEU>.

¹⁷ *Week 17 Household Pulse Survey: October 14 – October 26*, U.S. CENSUS BUREAU (Nov. 4, 2020), <https://bit.ly/3puR4nt> at Food Sufficiency & Food Security Tables 2a & 2b.

¹⁸ *Id.*, at Housing Table 2b. See also Emily Benfer et al., *The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are at Risk*, ASPEN INST. (Aug. 7, 2020), <http://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk> (estimating 30 to 40 million adults and children are at risk of eviction nationwide); Stout, *Analysis of Current and Expected Rental Shortfall and Potential Evictions in the U.S.*, NAT'L COUNCIL OF ST. HOUSING AGENCIES 36 (Sept. 25, 2020), <https://bit.ly/34ERUnU> (finding 1.4 million households in GA (340,000-460,000), NC (300,000-410,000), SC (150,000-210,000), and VA (220,000-320,000) likely unable to pay October rent).

¹⁹ *Week 17 Household Pulse Survey*, *supra* note 17.

²⁰ *The Eviction Tracking System*, EVICTION LAB, <http://evictionlab.org/eviction-tracking> (last updated Sept. 26, 2020).

²¹ Lillian Leung, Peter Hepburn & Matthew Desmond, *Serial Eviction Filings: Civil Courts, Property Management, and the Threat of Displacement*, SOC. FORCES, Sept. 11, 2020, at 19, <https://bit.ly/2FcNPhX>.

evicted 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.²² Third, tenants lack legal protections or supports to contest evictions, especially as demand for legal assistance has increased during the pandemic.²³ Municipalities with weaker eviction protections see more eviction filings.²⁴

The Eviction Lab’s research on eviction filings during the pandemic shows that 1) where eviction moratoria are in place, the intervention effectively chills eviction filings during the pandemic; and 2) without moratoria in place, eviction filings quickly reach or exceed historic filing rates. Along with the stimulus and extended federal unemployment benefits, the CARES Act slowed evictions by effectively prohibiting eviction of tenants in buildings with federally backed mortgages or federal subsidies until August 25.²⁵ More recently, the CDC Order forestalls residential evictions where a tenant meets certain criteria.²⁶ These orders were effective: In the short period between when the CARES Act protections expired and when the CDC Order took effect, new eviction filings rose quickly to exceed historical levels in almost every site without a

²² Renee Louis, Alieza Durana & Peter Hepburn, *Preliminary Analysis: Eviction Claim Amounts During COVID-19 Pandemic* (Aug. 27, 2020), <https://evictionlab.org/covid-eviction-claims>.

²³ 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*, FAST FOCUS, No. 22-2015, at 1-6 (Mar. 2015), <https://bit.ly/36MxjAO>

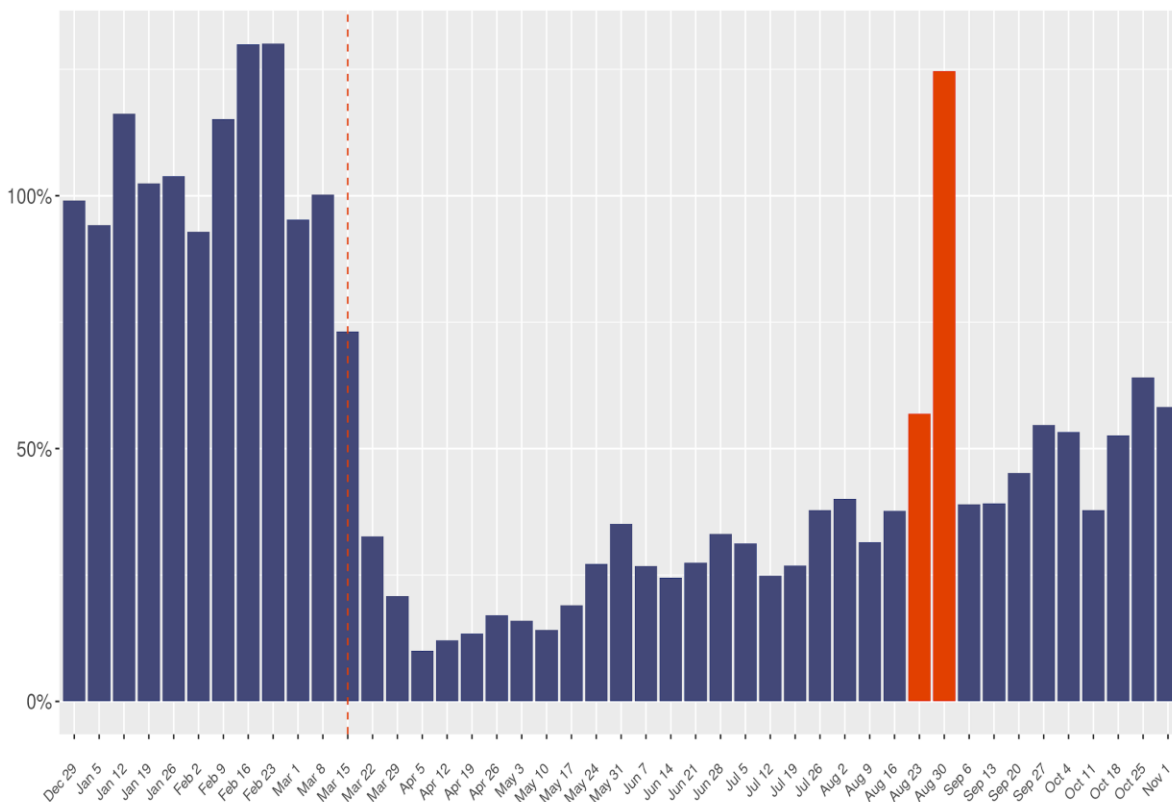
²⁴ *Eviction Tracking System*, *supra* note 20.

²⁵ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 4024, 134 Stat. 281, 491 (2020).

²⁶ Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (Sep. 4, 2020); Nat’l Housing L. Project, CDC Eviction Moratorium – Initial Analysis, (Sep. 4, 2020) <https://bit.ly/2GFm1C>.

local moratorium.²⁷ Following the CDC Order, new filings dropped dramatically in most sites studied, including Ohio cities.

Figure 1. Weekly eviction filings relative to historical averages in all Eviction Tracker System sites.



These numbers demonstrate that the CARES Act and the CDC Order—when effectively enforced—did and can prevent eviction filings. *Amici* have seen decreases in filings as tenant understand their rights under the CDC moratorium. Without a nationwide, uniformly adopted eviction moratorium, it is likely that evictions will quickly increase to unseen heights. This would

²⁷ 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>.

place families and individuals at risk of contracting COVID-19, as well as related and severe health harms.

II. Eviction Moratoria 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 environment²⁸ that increase new contact with others and make compliance with pandemic health guidelines difficult or impossible. Eviction increases the likelihood of doubling or tripling up by staying with family and friends who may themselves be at high risk for COVID-19.²⁹ Residential crowding and increased contact with others drive the spread of respiratory illnesses, such as COVID-19.³⁰ Even seemingly small differences in housing have been linked to substantial increases in the transmission rate of infectious disease.³¹ Adding as few as two new members to a household can

²⁸ Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOC. 88, 120 (2012) (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.”).

²⁹ Michelle D. Layser et al., *Mitigating Housing Instability During a Pandemic* (forthcoming) (manuscript at 4, 14), <https://ssrn.com/abstract=3613789>.

³⁰ See Eric Lofgren et al., *Influenza Seasonality: Underlying Causes and Modeling Theories*, 81 J. VIROLOGY 5429, 5431 (2007) (“The person-to-person spread of virus-laden aerosol particles is greatly enhanced by having a dense population of susceptible individuals surrounding each infective subject, thereby maximizing the potential for the spread of infection.”); 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) (finding the case incidence rate among males experiencing homelessness to be roughly thirteen times the state-wide figure, and higher among those accommodated in crowded living environments); 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) (finding significant relationship ($p < 0.01$) between “high contact” living situations like shelters and tuberculosis infection among sample of homeless San Francisco residents).

³¹ 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),

as much as double the risk of other illness.³² This increased likelihood of transmission for 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.³³

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-fold increase in the rate of illness.³⁴ Other studies suggest overcrowding spreads tuberculosis³⁵ and severe cases of influenza among children.³⁶

Evicted households are likely to contract—and spread—COVID-19 while moving from shelter to shelter or home to home.³⁷ In many cases, people facing homelessness will sleep in cars or outdoors; they will have access only to public, not private, restrooms.³⁸ 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

<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/2laVtdW>.

³² 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).

³³ 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).

³⁴ 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 ($p < 0.001$)).

³⁵ E. Drucker et al., *Childhood Tuberculosis in the Bronx, New York*, 343 LANCET 1482, 1482 (1994), <https://bit.ly/34FEaci>.

³⁶ 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).

³⁷ *COVID-19 Pandemic Planning Scenarios*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 10, 2020), <https://bit.ly/36RatI6>.

³⁸ Sara K. Rankin, *Punishing Homelessness*, 22 NEW CRIM. L. REV. 99, 126 (2019).

cleaning asks and other personal protective equipment. By driving families to poorer neighborhoods, eviction may also lead to less frequent COVID-19 testing.³⁹

Indeed, the mere threat of eviction can increase stress levels, anxiety, and depression and weaken the immune system.⁴⁰ These responses likely advance the spread of infectious diseases, including respiratory illness and the flu. 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. And as we enter the winter months, housing instability increases risk of health harms.⁴¹

Housing stability is especially critical to pandemic control because infected persons can spread COVID-19 before they start to show symptoms and possibly for weeks after symptoms appear.⁴² According to the CDC, approximately 40% of infected individuals may never show symptoms—but nonetheless may transmit the virus to others.⁴³ Due to the high rate of transiency 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

³⁹ Stephanie Schmitt-Grohé, Ken Teoh & Martín Uribe, *Covid-19: Testing Inequality in New York City* 8 COVID ECONOMICS: VETTED AND REAL-TIME PAPERS, April 22, 2020, at 27 (published by the Centre for Economic Policy Research).

⁴⁰ Dusica Lecic Tosevski & Milica Pejovic Milovancevic, *Stressful Life Events and Physical Health*, 19 CURRENT OPINION 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) (linking increased eviction rates to higher rates of sexually transmitted diseases).

⁴¹ Paige Zhang et al., *Cold Weather Conditions and Risk of Hypothermia Among People Experiencing Homelessness: Implications for Prevention Strategies*, 16 INT. J. FOR ENVIRON. RES. ON PUBLIC HEALTH 18, 3259 (2019).

⁴² *COVID-19 Basics*, HARV. MED. SCH., <https://bit.ly/3nviSa3> (last updated Oct. 1, 2020) (summarizing studies that “have shown that symptoms could appear as soon as three days after exposure to as long as 13 days later”).

⁴³ *COVID-19 Pandemic Planning Scenarios*, *supra* note 37, at tbl.1.

COVID-19, but are unable to self-isolate.⁴⁴ In order to prevent COVID-19 spread, individuals and families must be able to shelter in place with the same household.

Eviction is associated with decreased access to primary and specialty medical care, regardless of an individual's housing status post-eviction.⁴⁵ In addition, those facing eviction have difficulty prioritizing their health needs while fighting to maintain housing.⁴⁶ From this baseline, eviction itself amplifies individual risk of COVID-19 complications and mortality. This can be particularly harmful to people who are already at risk, such as people immunocompromised due to cancer care, HIV/AIDS, or other conditions.⁴⁷ Even when infected individuals present COVID-19 symptoms, eviction decreases the likelihood that they will seek timely medical attention that could stem community transmission.⁴⁸ Evicted individuals are also more likely to use emergency

⁴⁴ Michael Z. Levy, Justin Sheen, Anjalika Nande, Ben Adlam, Andrew Greenlee & Daniel Schneider, *COVID-19 Eviction Simulations*, GITHUB (2020), <https://bit.ly/2GE4Pyf>; see also Justin Sheen, Anjalika Nande, Emma L. Walters, Ben Adlam, Andrei Gheorghe, Julianna Shinnick, Maria Florencia Tejada, Andrew J. Greenlee, Daniel Schneider, Alison L. Hill, Michael Z. Levy, *The Effect of Eviction Moratoria on the Transmission of SARS-CoV-2* (pre-print, Nov. 1, 2020), <https://bit.ly/35qOdUw>.

⁴⁵ 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 40, at 66.

⁴⁶ 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).

⁴⁷ *Selected Circulatory Diseases Among Adults Aged 18 and Over, By Selected Characteristics: United States, 2018*, CTRS. FOR DISEASE CONTROL & PREVENTION (2018), <https://bit.ly/2JanmCV>; *Selected Respiratory Diseases Among Adults Aged 18 and Over, By Selected Characteristics: United States, 2018*, CTRS. FOR DISEASE CONTROL & PREVENTION (2018), <https://bit.ly/34BweJk>; *Diabetes Prevalence and Glycemic Control Among Adults Aged 20 and Over, By Sex, Age, and Race and Hispanic Origin: United States, Selected Years 1988-1994 Through 2013-2016*, CTRS. FOR DISEASE CONTROL & PREVENTION (2018), <https://bit.ly/36KcsxL>. See also Elise D. Riley et al., *COVID-19 and HIV Spotlight the U.S. Imperative for Permanent Affordable Housing*, CLINICAL INFECTIOUS DISEASES (forthcoming 2020) (manuscript at 4), <https://bit.ly/3def48C> (describing homelessness as a risk factor for HIV).

⁴⁸ ROBERT COLLINSON & DAVID REED, *THE EFFECTS OF EVICTIONS ON LOW-INCOME HOUSEHOLDS 25* (Dec. 2018), <https://bit.ly/3lrYftK> ("Eviictions could also worsen health if evicted households are more financially constrained and cut back on preventative care or healthy behavior to afford new moving costs, such as a security deposit or broker's fee.")

departments, which cater to disproportionately vulnerable patients,⁴⁹ for their healthcare needs when they do seek care.⁵⁰

Whether through increased crowding, decreased ability to maintain safe, clean, and hygienic living spaces, or limited access to healthcare, eviction is particularly threatening to individual and public health during a pandemic.

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

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. The lower a person's socioeconomic status, the greater their economic hardship and risk of eviction and the higher their chance of suffering from chronic disease, including conditions like heart disease, pulmonary disease, and diabetes.⁵¹ All of these may increase the mortality risk of COVID-19.⁵² 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.⁵³ 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.⁵⁴

⁴⁹ See, e.g., Alison Rodriguez, *Nearly Half of All Medical Care in the US Is in Emergency Departments*, AJMC (Oct. 24, 2017), <https://bit.ly/34AKvWF> (“The increase in emergency room cases were able to be accounted for by certain groups including African Americans, Medicare and Medicaid beneficiaries, residents of the South and West, and women . . . [likely revealing] the vulnerable populations that potentially face healthcare inequalities.”). The World Health Organization categorizes a vulnerable population as one that is “unable to anticipate, cope with, resist and recover from the impacts of disasters.” *Vulnerable Groups*, WHO, <https://bit.ly/3d7XrXY> (last visited Oct. 6, 2020).

⁵⁰ See COLLINSON & REED, *supra* note 48, at 3.

⁵¹ *Id.* at 57.

⁵² *Id.*

⁵³ *People with Certain Medical Conditions*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 11, 2020), <https://bit.ly/3jVuuRL>; *People at Increased Risk*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 11, 2020), <https://bit.ly/2GNtvEi>.

⁵⁴ Emily Benfer et al., *supra* note 18; *Housing is the Best Medicine: Supportive Housing and the Social Determinants of Health*, CORP. FOR SUPPORTIVE HOUSING (July 2014), <https://bit.ly/2SFpvIQ>.

People at the highest risk of eviction are more likely to live in substandard housing conditions that threaten their health⁵⁵ such as poor ventilation, pest infestations, and mold—all closely associated with the development of respiratory conditions and general poor health.⁵⁶

Eviction itself leads to numerous comorbidities.⁵⁷ Evictions force renters into living conditions that increase exposure to social determinants that drive poor health.⁵⁸ Eviction and housing instability are associated with increased incidence of high blood pressure, higher mortality regardless of cause,⁵⁹ increased risk of coronary heart disease independent of other underlying risk factors,⁶⁰ poor self-reported general health,⁶¹ and an increased propensity to smoke.⁶² Evictions are associated with several interrelated conditions, including anxiety, depression, sexually transmitted infections,⁶³ HIV-related treatment outcomes,⁶⁴ drug use,⁶⁵ exposure to

⁵⁵ One in ten poor households lived in inadequate housing. Wilhelmine D. Miller et al., *Healthy Homes and Communities: Putting the Pieces Together*, 40 AM. J. PREVENTIVE MED. S48, S51 (2011).

⁵⁶ Emily A. Benfer, et. al, *There's No Place Like Home: Reshaping Community Interventions and Policies to Eliminate Environmental Hazards and Improve Population Health for Low-Income and Minority Communities*, 11 HARV. L. & POL'Y REV. S1 (2017).

⁵⁷ *Homelessness & Health: What's the Connection?*, NAT'L HEALTHCARE FOR THE HOMELESS COUNCIL (Feb. 2019), <https://bit.ly/34GF74a>; *People with Certain Medical Conditions*, CTRS. FOR DISEASE CONTROL & PREVENTION (Sept. 11, 2020), <https://bit.ly/2Ibypf5>.

⁵⁸ Eviction is a legal record that scars a tenant's rental history and shrinks credit scores. Many private property owners and public housing authorities count eviction against families, which results in exclusion from housing, even when an eviction case is dismissed. See Matthew Desmond & Monica Bell, *Housing, Poverty, and the Law*, 11 ANN. REV. L. & SOC. SCI. 15, 19 (2015); Matthew Desmond, *supra* note 28, at 91; Matthew Desmond, *supra* note 23. Eviction is both a barrier to employment and cause of unemployment. Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 SOC. PROBS. 46, 47 (2016). An eviction makes it more difficult and more expensive to rent a new home, borrow money, or purchase a home. *Eviction Filings Are Barrier to Finding Future Housing—Even for Tenants Who Are Not Evicted*, L. COMM. FOR BETTER HOUSING (Mar. 7, 2018), <https://bit.ly/3dcqFFe>.

⁵⁹ Yerko Rojas, *Evictions and Short-Term All-Cause Mortality: A 3-Year Follow-Up Study of A Middle-Aged Swedish Population*, 62 INT'L J. OF PUB. HEALTH 343, 346 (2016).

⁶⁰ Tosevski & Milovancevic, *supra* note 40 at 185, 187; see Vásquez-Vera et al., *supra* note 40, at 205.

⁶¹ Vásquez-Vera et al., *supra* note 40, at 202, 204.

⁶² Julia Bolívar Muñoz et al., *The Health of Adults Undergoing an Eviction Process*, 30 GACETA SANITARIA 4, 4 (2016).

⁶³ Niccolai, Blankenship & Keene, *supra* note 40, at 65.

⁶⁴ Mary Clare Kennedy et al., *supra* note 45, at 7-8.

⁶⁵ 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).

violence,⁶⁶ mental health hospitalization,⁶⁷ and suicide.⁶⁸ 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.⁶⁹ For women, eviction is associated with physical and sexual assault,⁷⁰ drug use and related harms,⁷¹ mental illness,⁷² and future housing precarity.⁷³ The health conditions and high health care costs associated with eviction make future eviction more likely.⁷⁴ In this way, eviction worsens longstanding patterns of economic and housing instability and poor health.⁷⁵

Eviction is particularly traumatizing to children and affects emotional and physical well-being and development for years, if not for a lifetime.⁷⁶ Eviction increases the likelihood of

⁶⁶ Mary Clare Kennedy et al., *Residential Eviction and Exposure to Violence Among People Who Inject Drugs in Vancouver, Canada*, 41 INT’L J. DRUG POL’Y 59, 61-63 (2017).

⁶⁷ COLLINSON & REED, *supra* note 48, at 3.

⁶⁸ Rojas & Stenberg, *supra* note 59, at 412-13.

⁶⁹ Julia Raifman, Catherine Ettman, Lorraine Dean, Colleen Barry & Sandro Gale, *COVID-19 Related Stressors and Suicidal Ideation* (unpublished manuscript on file with counsel).

⁷⁰ 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).

⁷¹ 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).

⁷² 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).

⁷³ 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>.

⁷⁴ 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 Five* (accepted for publication); Gabriel L. Schwartz, *Cycles of Disadvantage: Eviction & Children’s Health in the United States* (2020) (Ph.D. dissertation, Harvard University) <https://bit.ly/31NMJBw>; see also Heidi L. Allen et al., *Can Medicaid Expansion Prevent Housing Evictions?*, HEALTH AFF. (Sept. 2019), <https://bit.ly/30IZwEQ>.

⁷⁵ MATTHEW DESMOND, *EVICTED* (2016); Heidi L. Allen et al., *supra* note 74; Pollack, Leifheit & Linton, *supra* note 73.

⁷⁶ AM. ACAD. OF PEDIATRICS, *PROVIDING CARE FOR CHILDREN AND ADOLESCENTS FACING HOMELESSNESS AND HOUSING INSECURITY* (2020), <https://bit.ly/3dbi0CT>; HEATHER SANDSTROM & SANDRA HUERTA, *URBAN INST., THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS* 6 (2013), <https://urbn.is/2SCVfhB>.

emotional trauma, lead poisoning,⁷⁷ food insecurity,⁷⁸ and academic decline for children.⁷⁹ 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.⁸⁰ Children whose mothers are evicted during pregnancy are more likely to have adverse birth outcomes, such as low birthweight or preterm pregnancies.⁸¹ 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.⁸² The evidence is clear: Child health and housing security are closely intertwined.⁸³ 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.

⁷⁷ 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); Schwartz, *supra* note 74. *See also* *Homelessness Just 'One of The Concerns' When Someone Is Evicted*, NEWSWISE (Jan. 28, 2020), <https://bit.ly/3loTQHR>.

⁷⁸ 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).

⁷⁹ 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 74; *see also* Desmond, *supra* note 23; 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).

⁸⁰ Maxia Dong et al., *Childhood Residential Mobility and Multiple Health Risks During Adolescence and Adulthood: The Hidden Role of Adverse Childhood Experiences*, 159 ACHIEVES OF PEDIATRICS & ADOLESCENT MED. 1104, 1107 (2005).

⁸¹ 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>.

⁸² Schwartz et al., *supra* note 74; Schwartz, *supra* note 74.

⁸³ AM. ACAD. OF PEDIATRICS, *PROVIDING CARE FOR CHILDREN AND ADOLESCENTS FACING HOMELESSNESS AND HOUSING INSECURITY* (2020), <https://bit.ly/3dbi0CT>.

C. Studies Suggest Eviction Moratoria Prevent COVID-19 Deaths

Preliminary analyses show that lifting and perhaps even easing eviction moratoria may be associated with an increased rate of COVID-19 infection and death. In the short period between when the CARES Act protections expired and when the CDC Order took effect, new eviction filings rose quickly to exceed historical levels in almost every site without a local moratorium. Among the cities tracked by the Eviction Lab without moratoria, eviction filings rose as high as 395% above historical weekly averages after the CARES Act expired. Following the CDC Order, new filings dropped dramatically, to as low as 83% below historical weekly averages.⁸⁴

Two recent 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 moratoria as a natural experiment to evaluate whether lifting moratoria was associated with increased COVID-19 spread and mortality.⁸⁵ The study considered forty-three states and the District of Columbia, which instituted moratoria during the pandemic, and compared the twenty-seven states that lifted their moratoria to those that did not. After controlling for mask orders, stay at home orders, school closures, and testing rates, as well characteristics of states and underlying time trends, lifting moratoria was associated with 1.6 times higher COVID-19 mortality after seven weeks and 5.4 times higher mortality after sixteen weeks.⁸⁶ Similarly, lifting moratoria was

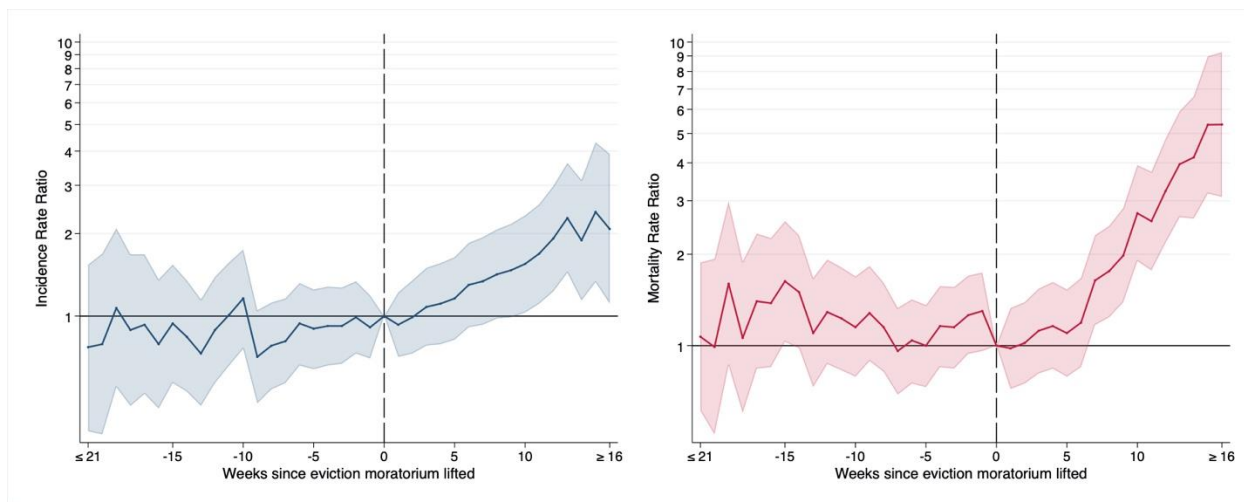
⁸⁴ See Hepburn, *supra* note 35.

⁸⁵ 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* (Oct. 2020) (unpublished manuscript) (on file with author).

⁸⁶ *Id.* at 3.

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 moratoria.⁸⁷

Figure 2. Relative risk of COVID-19 cases and deaths associated with lifting moratoria.⁸⁸



Researchers from the University of Pennsylvania, Harvard University, and University of Illinois Urbana-Champaign modeled the potential impacts of lifting eviction moratoria on COVID-19 infection and mortality rates.⁸⁹ The model is primarily concerned with the epidemiological consequences of increased crowding as a result of eviction because evicted individuals tend to “double up,” which increases household size and thus boosts opportunities for viral spread.⁹⁰ The model also takes account of various interventions, such a lockdowns, and the strength of eviction

⁸⁷ *Id.*

⁸⁸ *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.

⁸⁹ Levy, Sheen, Nande, Adlam, Greenlee & Schneider, *supra* note 44.

⁹⁰ *Id.*

moratoria imposed since the start of the pandemic. When applied to metropolitan areas like Toledo or Columbus, with smaller initial outbreaks but relatively early easing of lockdown restrictions, the model suggested eviction rates would have a significant impact on the ultimate number of COVID-19 cases and deaths. With an eviction rate of 0.25% per month, the model predicted a roughly 0.6% increase in total infections. With a monthly eviction rate of just 2% (less than half of Ohio's pre-pandemic rate of 3.49%),⁹¹ the model predicted a roughly 8% increase in total infections, in the first week.

III. Eviction and COVID-19 Disproportionately Harm Marginalized Groups

A. Evictions Disparately Affect Groups Based on Race and Gender

Historic trends and recent data demonstrate that people of color are more likely to face eviction during the pandemic. Race-based discrimination in eviction is evident in numerous studies: Black renters face eviction at the highest rates.⁹² One study determined that Black households are more than twice as likely as white households to be evicted.⁹³ In another study of multiple cities, approximately 80% of people facing eviction were Black.⁹⁴ Black women are evicted at higher rates than other groups.⁹⁵ Of all gender and race combinations, Black women renters are at the highest risk: in 17 out of 36 states studied, they face filings for eviction at double

⁹¹ *Map and Data*, *supra* note 1.

⁹² 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).

⁹³ Greenberg, Gershenson & Desmond, *supra* note 92, at 117.

⁹⁴ Chester Hartman & David Robinson, *Evictions: The Hidden Housing Problem*, 14 HOUSING POL'Y DEBATE 461, 467 (2003). Cities studied included New York, Chicago, Baltimore, Philadelphia, Los Angeles, and Oakland.

⁹⁵ Desmond, *supra* note 28, at 91; Rachel Dovey, *What 80 Million Eviction Records Can Tell City Leaders*, NEXT CITY (Apr. 9, 2018), <https://bit.ly/30L3aOm> (finding 1 in 5 Black female renters reporting that they have experienced eviction compared with 1 in 12 Hispanic/Latinx women and 1 in 15 white women).

the rate of white renters.⁹⁶ For people of color, who have one-twelfth of the wealth accumulation of white people⁹⁷ due to decades of racially discriminatory U.S. housing policy,⁹⁸ 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 expenses compared to half of white adults.⁹⁹

Without government interventions like the CDC order, the downward fall 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 health for many families and communities.

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 Americans are dying at 2.1 times the rate of non-Hispanic whites; Indigenous Americans as well as Hispanic/Latinx persons face an infection rate almost 3 times the rate of non-Hispanic whites.¹⁰⁰ Asian, Black and Hispanic/Latinx persons are 1.3, 4.7, and 4.6 times more likely to be hospitalized with COVID-19, respectively.¹⁰¹ Lack of health insurance drives 3.3–4.2% of COVID-19 diagnoses, with higher rates in counties with larger Black populations.¹⁰² COVID-19 death rates

⁹⁶ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color*, ACLU (Jan. 10, 2020), <https://bit.ly/2GNr4Sa>.

⁹⁷ Janelle Jones, *The Racial Wealth Gap: How African-Americans Have Been Shortchanged Out of the Materials to Build Wealth*, ECON. POL'Y INST. (Feb. 13, 2017, 12:01 PM), <http://www.epi.org/blog/the-racial-wealth-gap-how-african-americans-have-been-shortchanged-out-of-the-materials-to-build-wealth> (comparing median wealth of white and black families).

⁹⁸ See RICHARD ROTHSTEIN, *THE COLOR OF LAW*, *passim* (2017) (reviewing how de jure segregation and wealth inequality was shaped by government-directed redlining and home-ownership programs).

⁹⁹ Mark Hugo Lopez et al., *Financial and Health Impacts of COVID-19 Vary Widely by Race and Ethnicity*, PEW RES. CTR. (May 5, 2020), <http://www.pewresearch.org/fact-tank/2020/05/05/financial-and-health-impacts-of-covid-19-vary-widely-by-race-and-ethnicity>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Gregorio A. Millett et al., *Assessing Differential Impacts of COVID-19 on Black Communities*, 47 ANNALS EPIDEMIOLOGY 37, 37 (July 2020), <https://bit.ly/3iJ9BYv>.

are similarly stark: 2.3 times higher for Black people, 1.5 for Hispanic and Latinx,¹⁰³ and 1.75 for indigenous people than whites.¹⁰⁴ Black and Hispanic/Latinx people are dying at the rate of white people a decade or more older.¹⁰⁵ The CDC reports that all but 17 of the 121 children who have died from COVID-19 were non-white.¹⁰⁶

Driving these numbers are deep underlying disparities in health 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, and disparate access to health care.¹⁰⁷ Other social determinants of health, like poverty and access to clean air and water, have driven larger proportions of people of color to develop comorbidities with COVID-19, like asthma or hypertension, that likely help explain their higher mortality rates. The available state-level data on racial disparities suggest that Ohio has not escaped—and may have helped drive—these national disparities.¹⁰⁸

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 be evicted and suffer severe harm during the pandemic. Public health requires that *all* people are protected from COVID-19.

¹⁰³ *The COVID Racial Data Tracker*, COVID TRACKING PROJECT, <http://covidtracking.com/race> (last visited Oct. 5, 2020).

¹⁰⁴ *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.*, APM RES. LAB (Sept. 16, 2020), <https://bit.ly/36K8ZPL> (comparing white death rate of 47 per 100,000 with indigenous people death rate of 82 per 100,000).

¹⁰⁵ Tiffany Ford, Sarah Reber & Richard V. Reeves, *Race Gaps in COVID-19 Deaths Are Even Bigger Than They Appear*, BROOKINGS (June 16, 2020), <https://brook.gs/3lrRBU2>.

¹⁰⁶ Danae Bixler, et al., *SARS-CoV-2–Associated Deaths Among Persons Aged <21 Years — United States, February 12–July 31, 2020*, CDC 69 Morbidity and Mortality Weekly Report 37, 1324 (Sept. 18, 2020).

¹⁰⁷ Emily A. Benfer, Seema Mohapatra, Lindsay F. Wiley & Ruqaiyah Yearby, *Health Justice Strategies to Combat the Pandemic: Eliminating Discrimination, Poverty, and Health Inequity During and After COVID-19*, YALE J. HEALTH POL'Y L. & ETHICS (forthcoming 2020), <https://bit.ly/2GzVW9c>.

¹⁰⁸ See, e.g., *Racial Data Dashboard*, COVID TRACKING PROJECT, <http://covidtracking.com/race/dashboard> (showing disproportionately higher rates of infection and death for non-whites relative to percentage of population by state).

CONCLUSION

Eviction moratoria have mitigated COVID-19 spread and death. The CDC Order may be able to help control the pandemic, protect the public health, and prevent severe harm for millions of people, especially in communities of color. The CDC eviction moratoria is a critical public health tool that should be employed now.

Respectfully submitted this 25th day of November, 2020, by:

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CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record for all parties.

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