

No. 20A169

In the Supreme Court of the United States

ALABAMA ASSOCIATION OF REALTORS, *et al.*,
APPLICANTS,

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,
RESPONDENTS.

**BRIEF FOR THE DISTRICT OF COLUMBIA AND THE STATES OF
CONNECTICUT, CALIFORNIA, COLORADO, DELAWARE, HAWAII,
ILLINOIS, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN,
MINNESOTA, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK,
NORTH CAROLINA, OREGON, PENNSYLVANIA, RHODE ISLAND,
VIRGINIA, WASHINGTON, AND WISCONSIN AS *AMICI CURIAE* IN
OPPOSITION TO THE EMERGENCY APPLICATION TO VACATE THE STAY**

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INTRODUCTION AND INTEREST OF *AMICI CURIAE*

The District of Columbia and the States of Connecticut, California, Colorado, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, and Wisconsin (collectively, the “*Amici States*”) submit this brief as *amici curiae* in support of respondents and in opposition to Applicants’ emergency application to vacate the district court’s stay.

Our federal system gives states the “primar[y]” responsibility to regulate “health and safety matters.” *Hillsborough County v. Automated Med. Lab’ys, Inc.*, 471 U.S. 707, 719 (1985). But even in this area of their traditional authority, states do not operate in a vacuum. Rather, in our system of cooperative federalism, states often work with and rely on the federal government to enact comprehensive, nationwide solutions to public health crises that affect every state in the union.

The Centers for Disease Control and Prevention’s Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 (“CDC Order”) is a core example of federal action that supports states’ efforts to protect their citizens’ health and welfare. Conceived under the Trump Administration, ratified and extended by Congress, and continued by the Biden Administration, the CDC Order has been a powerful tool in containing the spread of COVID-19. Recognizing that the ability to stay home and quarantine is an essential part of the pandemic response, the CDC Order—which temporarily prevents residential evictions for certain renters who otherwise would likely move into shared settings or become homeless—has been critical in helping states limit the spread of COVID-19.

The immediate dissolution of the CDC Order sought by the Applicants threatens the careful plans that states have crafted in reliance on the CDC Order. Some states expressly incorporated the CDC's national order into their own policies. Others stayed their hands, relying on the CDC's moratorium to protect residents without a separate state-specific response. And even those states that enacted their own eviction moratoria that go beyond the CDC Order rely on the CDC Order to stop cross-border movement and transmission. However individual states responded, *all* did so against the stable landscape of a nationwide eviction moratorium that will remain in place until a clear future expiration date.

While those reliance interests are important, the *Amici* States also urge this Court to deny the application for an independent reason: as the district court explained in its order, immediate vacatur of the CDC's Order would unleash devastating, irreparable harm on families, communities, and the states themselves. The nation has made fragile progress toward containing the coronavirus through social distancing policies and vaccination. Roughly half of Americans are fully vaccinated—a number that is almost certainly lower for individuals at risk of eviction, who are more likely to belong to groups overrepresented in COVID-19 cases and deaths and underrepresented in inoculation. If granted, the vacatur sought by Applicants could force millions of vulnerable individuals from their homes into the streets, crowded shelters, or into contact with family and friends within or across state lines. Mass evictions are damaging and destabilizing events in the best of times.

An unprecedented wave of mass evictions—amid the embryonic stages of the post-pandemic recovery—would be catastrophic.

Faced with this imminent harm, the district court used its discretion in textbook fashion: it temporarily stayed the vacatur of the CDC’s Order pending expedited appeal in the D.C. Circuit, reasonably concluding that any “additional financial loss” to landlords “is outweighed by the Department’s weighty interest in protecting the public.” *Ala. Ass’n of Realtors v. U.S. Dep’t of Health & Hum. Servs.*, No. 20-CV-3377, 2021 WL 1946376, at *5 (D.D.C. May 14, 2021). The D.C. Circuit declined to disturb that ruling. *Ala. Ass’n of Realtors v. U.S. Dep’t of Health & Hum. Servs.*, No. 21-5093, 2021 WL 2221646 (D.C. Cir. June 2, 2021).

That conclusion was plainly correct. Where, as here, “the Court is asked to undo a stay issued below, the bar is high”: the applicant must show that the issuing court was “demonstrably wrong in its application of accepted standards in deciding to issue the stay.” *Valentine v. Collier*, 140 S. Ct. 1598, 1598 (2020) (Sotomayor, J., respecting the denial of application to vacate stay) (quoting *W. Airlines, Inc. v. Teamsters*, 480 U.S. 1301, 1305 (1987) (O’Connor, J., in chambers)); see *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 571 U.S. 1061, 1062 (2013) (Scalia, J., concurring in denial of application to vacate stay). As explained further below, Applicants cannot come close to showing that the district court’s carefully considered order violated this demanding standard, especially given the irreparable harm at stake. This Court should deny the application to vacate the stay.

ARGUMENT

I. States Have Relied On The CDC Order When Crafting Their Own Responses To COVID-19.

Over the last year, COVID-19 has ravaged the United States. More than 33 million people have contracted the virus, and close to 600,000 have died from it. *See COVID Data Tracker: Weekly Review*, Ctrs. for Disease Control & Prevention.¹ And, although numbers are declining, more than 14,000 cases are still reported daily and over 2,500 people are hospitalized for COVID-19 each week. *Id.* From the beginning, states have acted as first responders to mitigate this catastrophic harm by enacting policies that reduce the spread of the virus. But states have not faced the unprecedented challenges of the novel coronavirus alone. Understanding that the virus does not recognize state borders, several states have looked to the federal government for guidance, support, and national coordination. The CDC's temporary pause on certain residential evictions has acted as both a guide and a backstop as states respond to shifting local conditions to stop COVID-19's spread.

COVID-19 spreads through close contact between individuals, primarily in enclosed spaces. *See Coronavirus Disease 2019 (COVID-19): How to Protect Yourself & Others*, Ctrs. for Disease Control & Prevention (Mar. 8, 2021).² Accordingly, since March 2020, every single state has implemented some measure of social distancing and has, in some form, encouraged or required individuals to stay at home if possible. Jacob Gershman, *A Guide to State Coronavirus Reopenings and Lockdowns*, Wall St.

¹ Available at <https://bit.ly/3cplZMX> (last visited June 9, 2021).

² Available at <https://bit.ly/3yGMZRA>.

J. (May 20, 2020).³ Eviction protections have been key public health tools to slow the spread of the virus. They ensure individuals have a space to isolate, and they prevent vulnerable individuals from being forced out onto the street, into shelters, or into the homes of family or friends, potentially exposing themselves and others to the virus. Forty-four states—from Alabama to California and Hawaii to Montana—have implemented eviction protections of some sort during the pandemic. *See* Ala. Proclamation, Tenth Supplemental State of Emergency (May 21, 2020);⁴ S.B. 91, 2021-2022 Reg. Sess. (Cal. 2021);⁵ *COVID-19 Landlord Tenants FAQs*, Haw. Dep’t of Com. & Consumer Affs. (Mar. 30, 2020);⁶ Mont. Exec. Order No. 2-2021 (Feb. 12, 2021).⁷

The CDC’s Order—in force over both the Trump and Biden Administrations and independently extended by Congress—has formed a stable, uniform backdrop against which states have crafted their own responses to the virus. Some states have expressly adopted the CDC Order under state authority. *See, e.g.*, Colo. Exec. Order No. D 20-20-227 (Oct. 21, 2020)⁸ (“This Executive Order amends and extends Executive Order D 2020 223, reaffirming and clarifying the CDC’s national eviction

³ Available at <https://on.wsj.com/3bYNaOd>.

⁴ Available at <https://bit.ly/3wBg12Z>.

⁵ Available at <https://bit.ly/2RQXktp>.

⁶ Available at <https://bit.ly/3yKRp9S>.

⁷ Available at <https://bit.ly/2TciUsH>.

⁸ Available at <https://bit.ly/3frK2wB>.

moratorium and protecting residential and commercial tenants at risk for eviction who were economically harmed by COVID-19.”); Ky. Exec. Order No. 2021-226 (Mar. 31, 2021)⁹ (providing that “[t]he CDC Order . . . shall apply in the Commonwealth of Kentucky, and is incorporated by reference herein”); Mont. Exec. Order No. 2-2021 (Feb. 12, 2021)¹⁰ (“Evictions and foreclosure actions against Montana renters and homeowners for failure to pay are prohibited in the same manner as established by CDC . . . temporary orders.”); N.C. Exec. Order No. 206 (Mar. 30, 2021)¹¹ (“reaffirm[ing] and clarify[ing] the protections established by the CDC Order” and “ensur[ing] accurate and consistent application of the CDC Order across the state”). Other states have relied on the CDC’s moratorium alone, forgoing their own eviction regulations to avoid creating confusion with the overlapping federal moratorium. *See, e.g.*, Memorandum from Frederick Piccolo Jr., Dir. of Comm., Gov. Ron DeSantis to Members of the Press 1 (Sept. 30, 2020)¹² (pointing to the ongoing “federal eviction relief” available through CDC’s “nationwide residential evictions Order” and permitting Florida’s eviction moratorium “to expire to avoid any confusion over whether the CDC’s evictions Order should apply in a particular circumstance”). Even in those states that have enacted tenant protections that go beyond the federal moratorium, the CDC Order has served an important interest. *See, e.g.*, D.C. Code

⁹ Available at <https://bit.ly/3oU9HRy>.

¹⁰ Available at <https://bit.ly/2TciUsH>.

¹¹ Available at <https://bit.ly/3wAbxK4>.

¹² Available at <https://bit.ly/3i0TEQs>.

§ 42-3505.01(k)(3) (preventing all evictions during the public health emergency and for 60 days thereafter except those affecting public safety); 2020 Vt. Acts & Resolves 160, Public Act 101 (similar). In these jurisdictions, the CDC Order acts as a national floor, preventing spillover effects from neighboring states with differing eviction policies. Jacek Rothert et al., *The Fragmented US: Local COVID-19 Policies Impact the Rest of the Country*, VoxEU (Sept. 22, 2020).¹³ Thus, while individual states have acted differently, the stable landscape of a nationwide eviction moratorium has been critical to each states' public health response.

Congress's express approval of the CDC Order further bolstered several states' reliance on the moratorium. As part of the 2021 Consolidated Appropriations Act, Congress explicitly approved "[t]he order issued by the Centers for Disease Control and Prevention under section 361 of the Public Health Service Act" by requiring that the moratorium stay in effect "through January 31, 2021." Pub. L. No. 116-260, § 502, 134 Stat. 1182, 2078-79 (2020). Several states subsequently pointed to Congress's approval in choosing to extend their own orders in light of the CDC's guidance. *See, e.g.*, Ky. Exec. Order No. 2021-226 (Mar. 31, 2021)¹⁴ (explaining how Governor Beshear had renewed prior executive orders "pursuant to the federal Consolidated Appropriations Act that extended the CDC moratorium on evictions"); N.C. Exec.

¹³ Available at <https://bit.ly/3x1McZT>.

¹⁴ Available at <https://bit.ly/3oU9HRy>.

Order No. 206 (Mar. 30, 2021)¹⁵ (noting that “the President signed the Consolidated Appropriations Act . . . which extended the CDC Order”).

The widespread importance of the CDC’s Order across the country shows how states—the entities “primarily, and historically” responsible for “the regulation of health and safety matters,” *Hillsborough County*, 471 U.S. at 719—have viewed the Order as a properly authorized, critical tool around which to frame local policy. The sudden dissolution of the CDC’s moratorium would throw states’ carefully crafted responses into disarray. In this case, contrary to Applicant’s contentions, federalism concerns support rather than undermine the rationale for the stay, and the equities support its continuation.

II. Sudden Vacatur Of The CDC Order Threatens Irreparable Harm To The States.

Applicants nowhere dispute the core justification underlying both the CDC’s Order and the district court’s temporary stay: without them, *millions* of people risk being forced from their homes and into contact with others during a continued pandemic. States have a critical interest in avoiding that catastrophic scenario, which threatens substantial harm to individuals, families, communities, and the public health. Indeed, sudden vacatur of the Order risks unwinding the fragile recovery that the nation as a whole has achieved.

According to the CDC, as many as 30 to 40 million American renters are at risk of eviction, and at least 4 million are at “imminent risk.” Temporary Halt in

¹⁵ Available at <https://bit.ly/3wAbxK4>.

Residential Evictions To Prevent the Further Spread of COVID-19, 86 Fed. Reg. 16,731, 16,733-34 (Mar. 31, 2021). Evictions undoubtedly increase COVID-related deaths. *See, e.g.,* Kay Jowers et al., *Housing Precarity & the COVID-19 Pandemic: Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties* (Nat'l Bureau of Econ. Rsch., Working Paper No. 28394, 2021).¹⁶ The CDC estimates—and the district court credited—that “as many as 433,000 cases of COVID-19 and thousands of deaths could be attributed to the lifting of state-based eviction moratoria.” *Ala. Ass’n of Realtors*, 2021 WL 1946376, at *4 (citing Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, 86 Fed. Reg. at 16,734). That widespread, imminent injury—and even death—is the quintessence of irreparable harm.

Although states have diligently worked to contain the spread of COVID-19, even states’ best efforts cannot prevent the CDC’s predicted harm. A patchwork jurisdiction-by-jurisdiction approach cannot contain a virus that will move with infected people across state lines. As researchers have explained, “most evicted households ‘double-up’—moving in with friends or family—immediately after being evicted.” Anjalika Nande et al., *The Effect of Eviction Moratoria on the Transmission of SARS-CoV-2*, 12 *Nature Commc’ns*, No. 2274, 2021, at 2.¹⁷ Mixing households increases the risk of spreading the coronavirus. *Id.* Consider the case of a family who was evicted from their home in San Antonio, Texas, and forced to travel to

¹⁶ Available at <https://bit.ly/3uOfREb>.

¹⁷ Available at <https://go.nature.com/3uu08tQ>.

Florida when no one in their home state could take them in. *See* Matthew Desmond, *The Rent Eats First, Even During a Pandemic*, N.Y. Times (Aug. 29, 2020).¹⁸ They contracted COVID-19 en route, potentially exposing others upon arrival. *Id.* Cross-country travel is not necessary for harm to occur; the United States has several multi-state metropolitan areas like Chicago (Illinois, Indiana, and Wisconsin); Cincinnati (Ohio, Indiana, and Kentucky); Memphis (Tennessee, Arkansas, and Mississippi); New York City (New York, New Jersey, Connecticut, and Pennsylvania); Philadelphia (Pennsylvania, New Jersey, Delaware, and Maryland); and Washington-Baltimore (District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia), where people often live and work across state lines. *See, e.g.*, Brian McKenzie, U.S. Census Bureau, *Out-of-State and Long Commutes: 2011*, at 8 tbl.5 (2013) (showing more than 5 million Americans worked outside of their state of residence in 2011);¹⁹ N.Y.C. Dep't of City Plan., *The Ins and Outs of NYC Commuting* 11 (2019) (demonstrating, that in 2017, 308,000 commuters lived in New Jersey but worked in Manhattan);²⁰ Taylor Quimby, *What Drives N.H. Commuters to Take the Bus to Boston?*, N.H. Pub. Radio (Mar. 23, 2018) (reporting that 82,000 New Hampshire residents commuted to Boston, Massachusetts daily for work in 2018).²¹

¹⁸ Available at <https://nyti.ms/3fQEPh9>.

¹⁹ Available at <https://bit.ly/2RPeiZi>.

²⁰ Available at <https://on.nyc.gov/3oY18pa>.

²¹ Available at <https://bit.ly/3vwjPT9>.

In such areas, the odds are particularly high that increased evictions in one area will lead to increased multi-state exposure to COVID-19.

Even a seemingly local outbreak poses risks for other states. There is “strong evidence that outbreaks on the East Coast (Connecticut) are linked to outbreaks on the West Coast (Washington).” Joseph R. Fauver et al., *Coast-to-Coast Spread of SARS-CoV-2 During the Early Epidemic in the United States*, 181 Cell 990, 994 (2020).²² Indeed, a Yale School of Public Health epidemiologist estimated that “infections spreading from New York account for 60 to 65 percent of the sequenced viruses across the country,” ultimately “fuel[ing] outbreaks in Louisiana, Texas, Arizona and as far away as the West Coast.” Benedict Cary & James Glanz, *Travel From New York City Seeded Wave of U.S. Outbreaks*, N.Y. Times (May 7, 2021).²³ Another group of researchers described COVID infections in one state “engulfing their neighbors . . . which previously had fared ok.” David Rubin et al., *COVID-19 Outlook: A Pivotal Moment in the U.S. Fight Against Coronavirus*, Childs. Hosp. of Phila. PolicyLab (July 1, 2020).²⁴ This suggests that “the novel coronavirus is spreading along the nation’s interstate highways.” Suzanne Rowan Kelleher, *Travel Watch: COVID-19 Is Spreading Along Interstate Highways, Per New Research*, Forbes

²² Available at <https://bit.ly/3wHRWb5>.

²³ Available at <https://nyti.ms/3bXeVqH>.

²⁴ Available at <https://bit.ly/3yL1J1V>.

(July 2, 2020).²⁵ In short, evictions can pose a significant threat of interstate spread, especially in dense interstate metropolitan areas.

Critically, these risks remain imminent and potentially catastrophic even amid the vaccine rollout. Roughly half of U.S. adults remain unvaccinated, and the vaccine is currently available only for those 12 years of age and older. *COVID Data Tracker: COVID-19 Vaccinations in the United States*, Ctrs. for Disease Control & Prevention.²⁶ Further, those at risk of eviction are disproportionately unlikely to be vaccinated. Both evictions and COVID transmission are more frequent in lower-income neighborhoods, see Nande et al., *supra*, and an analysis of CDC data found that “[h]igher poverty rates . . . are also associated with lower county vaccination rates” and that “counties that rank high on the Social Vulnerability Index (SVI) (those with higher vulnerability) have lower vaccination rates than [less-vulnerable] counties.” Jennifer Tolbert et al., Kaiser Fam. Found., *Vaccination is Local: COVID-19 Vaccination Rates Vary by County and Key Characteristics* (2021).²⁷ Vaccination rates are still relatively low for Black and Hispanic populations. *COVID Data Tracker: Demographic Characteristics of People Receiving COVID-19 Vaccinations in the United States*, Ctrs. for Disease Control & Prevention.²⁸ Not only are these demographic groups more likely to be renters, they are also most at risk of being

²⁵ Available at <https://bit.ly/2RRpK6z>.

²⁶ Available at <https://bit.ly/3bYtE4J> (last visited June 9, 2021).

²⁷ Available at <https://bit.ly/3hYPFUw>.

²⁸ Available at <https://bit.ly/3yICuND> (last visited June 9, 2021).

evicted during the pandemic. Emily Benfer et al., Aspen Inst., *The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are at Risk* (Aug. 7, 2020).²⁹ And a significant percentage of renter households who have fallen behind on rent have children, many of whom cannot currently get vaccinated. *Id.*

Even *if* all these renters were vaccinated, there would still be a need for a temporary pause on evictions. Economic recovery takes time, and many people still cannot pay back rent while the nation remains in the early phase of reopening. Indeed, some jurisdictions have extended their eviction moratoriums for some period *beyond* the public health emergency, recognizing the need for time to recover after restrictions are lifted. *See, e.g.*, D.C. Code § 16-1501(c) (temporarily pausing eviction filings until 60 days after the Mayor ends the public health emergency); N.J. Exec. Order No. 106, at 4 (Mar. 19, 2020)³⁰ (extending eviction protections up to two months after the Governor ends the public health emergency); 2020 Vt. Acts & Resolves 160, Public Act 101 (pausing most evictions for 30 days after the Governor ends the public health emergency). Critically, the federal government has appropriated over \$45 billion to help renters catch up on their rent. *Emergency Rental Assistance Program*, U.S. Dep't of Treas.;³¹ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 501, 134 Stat. 1182, 2070-78 (2020); American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 321(a)(1), 135 Stat. 4, 54. These funds are provided directly to state and local

²⁹ Available at <https://bit.ly/330N3x2>.

³⁰ Available at <https://bit.ly/3oWo1ck>.

³¹ Available at <https://bit.ly/3fN42Zw>.

governments, but it takes time for states to properly disburse these payments to their residents. *Emergency Rental Assistance Program, supra*; Jason DeParle, *Federal Aid to Renters Moves Slowly, Leaving Many at Risk*, N.Y. Times (May 4, 2021).³²

Applicants suggest that because the CDC's guidance allows vaccinated people to forgo masks, and because states are increasingly lifting their mask mandates for vaccinated people, the need for an eviction moratorium has lessened. Stay Appl. 32-34. But the snapshot of the disproportionately unvaccinated renters at risk of eviction underscores why the need for eviction moratoria is unrelated to any masking rules for vaccinated individuals. Indeed, nearly all the states that have their own eviction protections have retained their eviction moratoria—continuing to protect a vulnerable and disproportionately unvaccinated population—while simultaneously relaxing their mask guidelines for vaccinated people. *See, e.g., Guidance for the Use of Face Coverings*, Cal. Dep't of Pub. Health (May 3, 2021);³³ Conn. Exec. Order No. 12, at 3-4 (May 18, 2021);³⁴ 29th Modification of the Declaration of a State of Emergency for the State of Delaware, at 6, 19-20 (May 18, 2021);³⁵ D.C. Mayor's Order No. 2021-066 (May 1, 2021);³⁶ Ill. Exec. Order No. 2021-09 (Apr. 30, 2021);³⁷

³² Available at <https://nyti.ms/3yEGG0V>.

³³ Available at <https://bit.ly/3yL5zIn>.

³⁴ Available at <https://bit.ly/3oXNFxe>.

³⁵ Available at <https://bit.ly/2TrHuGp>.

³⁶ Available at <https://bit.ly/34mIAFg>.

³⁷ Available at <https://bit.ly/3uq4ylC>.

KDHE Mask Guidance, Kan. Dep't of Health & Env't,³⁸ Ky. Exec. Order. No. 2021-326, at 1-2 (May 13, 2021);³⁹ Press Release, Tim Walz, Gov. of Minn., *Following New CDC Guidance, Governor Walz Announces End to Statewide Face Covering Requirement* (May 13, 2021);⁴⁰ N.J. Exec. Order No. 242, at 7-8 (May 24, 2021);⁴¹ Press Release, Andrew M. Cuomo, Gov. of N.Y., *Governor Cuomo Announces New York State to Adopt New CDC Guidance on Mask Use and Social Distancing for Fully Vaccinated Individuals* (May 17, 2021);⁴² N.C. Exec. Order No. 215, at 5 (May 14, 2021);⁴³ *Statewide Reopening Guidance—Masks, Face Coverings, Face Shields*, Or. Health Auth. (May 18, 2021);⁴⁴ Press Release, Phil Scott, Gov. of Vt., *Phil Scott Announces Threshold to Remove All COVID-19 Restrictions* (May 21, 2021).⁴⁵ Updated CDC guidance does not undercut either the CDC's or the district court's rationale for leaving the moratorium in place.

Applicants' arguments regarding harm also fail. Stay Appl. 28-29. Not only has the government appropriated substantial financial assistance for property owners to mitigate financial losses, monetary loss is a classically *reparable* harm. *See*

³⁸ Available at <https://bit.ly/3ur46DD> (last visited June 9, 2021).

³⁹ Available at <https://bit.ly/3yBxB42>.

⁴⁰ Available at <https://bit.ly/2SAe88h>.

⁴¹ Available at <https://bit.ly/3hXQCMZ>.

⁴² Available at <https://on.ny.gov/3yLE3tY>.

⁴³ Available at <https://bit.ly/3oV5Cwu>.

⁴⁴ Available at <https://bit.ly/3yL8aBS>.

⁴⁵ Available at <https://bit.ly/3usZBse>.

Sampson v. Murray, 415 U.S. 61, 89-90 (1974) (“Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough” to “constitute irreparable injury.”). After balancing the stay factors in an exercise of its discretion, the district court therefore concluded that any “additional financial loss[]” to landlords “is outweighed by the Department’s weighty interest in protecting the public.” *Ala. Ass’n of Realtors*, 2021 WL 1946376, at *5. Given the near-certainty of widespread injury and death that will result from the sudden dissolution of the federal moratorium, Applicants have not—and cannot—show that the district court’s well-reasoned conclusion was “demonstrably wrong.” *Valentine*, 140 S. Ct. at 1598. That is enough to deny the application.

Put simply, deadly pandemics do not respect state boundaries, and the CDC’s moratorium remains vital to ensuring the health of every state’s residents. Accordingly, the stay is well supported by the equities.

CONCLUSION

This Court should deny the emergency application to vacate the district court’s stay.

Respectfully submitted,

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