

**In the Franklin County Municipal Court
Columbus, Ohio**

Administrative Order Number: 11-2021

Effective: Forthwith

The U.S. Centers for Disease Control and Prevention's order entitled "Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19" expired on July 31, 2021. On August 3, 2021, the CDC issued a new order entitled "Temporary Halt in Residential Evictions in Communities with Substantial or High Levels of Community Transmission of Covid-19 to Prevent the Further Spread of Covid-19." Both orders were issued pursuant to Section 361 of the Public Health Service Act, 42 U.S.C. 264(a). The new order is the same in substance as the previous order, except that its application is limited to U.S. counties "experiencing substantial or high rates of community transmission levels of SARS-CoV-2 as defined by the CDC." *Id.* at 3. Notably, the CDC's data reflects that all but three states have substantial or high community transmission levels as of August 4, 2021.¹

On July 23, 2021, the Sixth Circuit Court of Appeals held that the CDC exceeded its authority under Section 361 of the Public Health Service Act, 42 U.S.C. 264(a) by issuing the first eviction order. Because the new CDC eviction order is essentially the same as the previous order and was issued pursuant to 42 U.S.C. 264(a), the Court finds that the new CDC order is legally unenforceable within the Sixth Circuit. See *Tiger Lily, LLC, et al. v. United States HUD, et al.*, 6th Cir. No. 21-5256, 2021 U.S. App. LEXIS 21906 (July 23, 2021).

In any case for restitution of premises in which a stay was granted pursuant to the first CDC order, the plaintiff must file a motion with the Court requesting that the stay be lifted and stating what further proceedings are appropriate (e.g., schedule for trial, allow execution to proceed, etc.).

8.5.21

Date



Judge Ted Barrows

Administrative and Presiding Judge

¹ U.S. Centers for Disease Control and Prevention, *Level of Community Transmission of COVID-19, by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#cases_community (accessed Aug. 4, 2021).