

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

HENRY FREDERICK RAMEY, JR.,
Petitioner,
v.
THE SUPERIOR COURT OF SAN
BERNARDINO COUNTY,
Respondent;
HECTOR PENA GOMEZ,
Real Party in Interest.

E076944

(Super.Ct.Nos. CIVSB2101966
& LLTVA2000547)

The County of San Bernardino

THE COURT

The petition for writ of mandate and request for immediate stay are DENIED.

FIELDS

Acting P. J.

Panel: Fields
Ramirez
McKinster

cc: See attached list

MAILING LIST FOR CASE: E076944
Henry Ramey v. The Superior Court; Hector Gomez

Superior Court Clerk
San Bernardino County
8303 N. Haven Avenue
Rancho Cucamonga, CA 91730

Henry Frederick Ramey Jr.
24784 5th Street
San Bernardino, CA 92410

Michael C Earle
Fast Eviction Service
474 W. Orange Show Road
San Bernardino, CA 92408

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

APPELLATE DIVISION

8303 N. Haven Avenue 1st Floor
Rancho Cucamonga, CA 91730
(909) 384-1888

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

FEB 18 2021

BY Cheryl Franzen
CHERYL FRANZEN, DEPUTY

CASE NO. CIVSB2101966 / LLTVA2000547 (Fontana)

DATE: February 18, 2021

<p>HENRY RAMEY, Petitioner,</p> <p>v.</p> <p>SUPERIOR COURT FOR THE COUNTY OF SAN BERNARDINO, Respondent,</p> <p>HECTOR M. PENA GOMEZ, Real Party in Interest.</p>	<p><u>ORDER</u></p>
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The February 11, 2021 writ petition is denied.

The Honorable Corey G. Lee and The Honorable Cheryl C. Kersey concur.



[Signature]

Lynn M. Poncin
Presiding Judge of the Appellate Division

CC: Fontana Courthouse

I certify that copies of the above Order were mailed to counsel of record as indicated on

Court Clerk

Superior Court State of California

County of San Bernardino

Appellate Division

DECLARATION OF SERVICE BY MAIL

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)

Writ # CIVSB2101966

Trial Court# LLTVA2000547

The undersigned hereby declares: I am a citizen of the United States of America, over the age of eighteen years, a resident of the above-named State, and not a party to nor interested in the proceedings named in the title of the annexed document. I am a Deputy Appellate Clerk of said County. I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business. On the date of mailing shown below, I placed for collection and mailing following ordinary business practices, at the request and under the direction of the Superior Court in and for the State of California and County above-named, whose office is at the Courthouse, Rancho Cucamonga, California, a sealed envelope which contained a true copy of each annexed document, and which envelope was addressed to the addressee, as follows:

HENRY FREDERICK RAMEY, JR
24784 5TH ST
SAN BERNARDINO, CA 92410

FAST EVICTION SERVICE
C/O M C EARLE
474 W. ORANGE SHOW RD
SAN BERNARDINO, CA 92408

FONTANA COURTHOUSE

Date and Place of Mailing: February 18, 2021, Rancho Cucamonga, CA

Document Mailed: **ORDER**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2021, at Rancho Cucamonga, California.



A handwritten signature in black ink, appearing to read "Cheryl Berger", is written over a horizontal line.

Deputy Clerk

SUPREME COURT
FILED

Court of Appeal, Fourth Appellate District, Division Two - No. E076944

MAY 11 2021

S268712

Jorge Navarrete Clerk

IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

HENRY FREDERICK RAMEY, JR., Petitioner,

v.

SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent;

HECTOR PENA GOMEZ, Real Party in Interest.

The petition for review and application for stay are denied.

Cantil-Sakauye
Chief Justice

1 **MEMORANDUM OF POINTS AND AUTHORITIES.**

2 **I. COMPLAINT IS BARRED BY THE SERVICE OF THE CDC DECLARATION**
3 **TEMPORARILY BARRING EVICTIONS.**

4 Defendant Henry Frederick Ramey, Jr., served his CDC Declaration on Plaintiff on
5 October 9 and 12, and November 24, 2020. The purpose of the CDC Declaration is to bar
6 Unlawful Detainer Actions until January 31, 2021. No Unlawful Detainer Action should have
7 been commenced after the Declaration after it was served on Plaintiff.

8 The Order stated in [https://www.federalregister.gov/documents/2020/09/04/2020-](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293)
9 [19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293)
10 [19#footnote-5-p55293](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293), states in part that:

11 "Therefore, under 42 CFR 70.2, subject to the limitations under the
12 "Applicability" section, a landlord, owner of a residential property, or other person
13 with a legal right to pursue eviction or possessory action shall not evict any
14 covered person from any residential property in any State or U.S. territory in
15 which there are documented cases of COVID-19 that provides a level of public-
16 health protections below the requirements listed in this Order."

17 Section 502 of the latest COVID Relief Act states:

18 "SEC. 502. EXTENSION OF EVICTION MORATORIUM. The order
19 issued by the Centers for Disease Control and Prevention under section 361 of
20 the Public Health Service Act (42 U.S.C. 264), entitled "Temporary Halt in
21 Residential Evictions To Prevent the Further Spread of COVID-19" (85 Fed.
22 Reg. 55292 (September 4, 2020) is extended through January 31, 2021,
23 notwithstanding the effective dates specified in such Order."

24 Here, this Action is barred.

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26 ///

27 ///

28 ///

///

///

///

1 HENRY FREDERICK RAMEY, JR.,
2 24784 5th St.
3 San Bernardino, CA., 92410
4 TEL.: (909) 678-9348
5 hanksanberdoo@aol.com

6 In Propria Persona

7
8 SUPERIOR COURT OF CALIFORNIA,
9 COUNTY OF SAN BERNARDINO.

10 HECTOR PENA GOMEZ,

11 Plaintiff,

12 v.

13 HENRY FREDERICK RAMEY, JR., DOES 1-
14 10, inclusive,

15 Defendants.
16

Case No.: LLTVA 2000547

DECLARATION OF HENRY FREDERICK
RAMEY, JR., IN OPPOSITION TO THE EX-
PARTE APPLICATION TO ADVANCE THE
HEARING ON DEMURRER.

Motion Date: Jan. 12, 2021.

Time: 8:30 a. m.

Dept. F6.

Discovery Cut-Off: None.

Motion Cut-Off: None.

Trial Date: None.

17 I, Henry Frederick Ramey, Jr., declare that:

- 18
- 19 1. I am the Defendant in this Action, and if I am called to testify as a witness, I would
- 20 competently and truthfully testify under oath.
- 21
- 22 2. I am completely opposed to this Application. There is **NO** urgency for this
- 23 Application. This Application is made because Plaintiff and Fast Eviction Service are
- 24 **TOO GREEDY.**
- 25
- 26 3. This case requires sustaining the Demurrer without leave to amend and Dismissal in
- 27 that both [https://www.federalregister.gov/documents/2020/09/04/2020-](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293)
- 28 [19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293)
- [19#footnote-5-p55293](https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293), and Section 502 of the latest COVID Relief Act both prohibit

Demurrer—Pena Gomez v. Ramey - 1

7a

HENRY FREDERICK RAMEY, JR.,
24784 5th St.
San Bernardino, CA., 92410
TEL.: (909) 678-9348
hanksanberdoo@aol.com

1 this Action. Then again, both provisions may be extended after January 20, 2021, so
2 Plaintiff should be told personally that he has to wait until Section 502 expires for
3 him to refile this frivolous Action.

4 4. Because Plaintiff knew that others like former tenant Tyrone Woodman, and his
5 friends, like Jeffery Bukowice and others, stole my scanner, TV, and computer,
6 Plaintiff **OWES ME THE FOLLOWING:**

- 7 a. An amount of \$276.67 in buying a 40" Hisense Roku T. V. from Walmart on
8 August 19, 2020, to replace the stolen 40" Sony HD T. V.
9 b. An amount of \$573.95 in buying an HP Laptop Computer from Office Depot on
10 August 19, 2020, to replace the stolen Acer Laptop Computer.
11 c. An amount of \$420 in changing the locks from JB Locksmith on August 18,
12 2020.

13 5. Plaintiff is also required under State law to replace the windows of former tenant
14 Tyrone Woodman's bedroom under Civil Code §1941.3(A)(2). Because Plaintiff
15 knew about their presence and entered the house through Woodman's bedroom,
16 he cannot have me evicted because of those unsecured windows.

17 Under the penalty of perjury, under the laws of the State of California, I declare that the
18 foregoing is true and correct, and that this declaration was executed on January 11, 2021, at
19 San Bernardino, California.

20
21 
22 HENRY FREDERICK RAMEY, JR.,
23 Declarant.

CASE NUMBER:
LLTVA 2000547

- m. (6) (a) ☒ Defendant delivered to plaintiff one or more declarations of COVID-19-related financial distress. (Code Civ. Proc., § 1179.03(f).) *(Describe when and how delivered):*
Both the State COVID-19 Declaration and the CDC Declaration was served with the Motion to Quash, and is also attached to the Answer.
- (b) ☐ *(For cases filed after January 31, 2021)* Defendant, on or before January 31, 2021, paid or offered plaintiff payment of at least 25% of the total rental payments that were due between September 1, 2020, and January 31, 2021, and that were demanded in the termination notices for which defendant delivered the declarations described in (a). (Code Civ. Proc., § 1179.03(g)(2).)
- (7) ☒ Defendant is currently filing or has already filed a declaration of COVID-19-related financial distress with the court. (Code Civ. Proc., § 1179.03(h).)
- n. ☒ *(For cases filed before February 1, 2021)* Plaintiff's demand for possession of a residential tenancy is based on a reason other than nonpayment of rent or other financial obligations, and plaintiff lacks just cause for termination of the tenancy, as defined in Civil Code section 1946.2(b) or Code of Civil Procedure section 1179.03.5(a)(3)(A).
- o. ☐ Plaintiff violated the COVID-19 Tenant Relief Act of 2020 (Code Civ. Proc., § 1179.01 et seq.) or a local COVID-19-related ordinance regarding evictions in some other way *(briefly state facts describing this in item 3s)*.
- p. ☒ *(For cases filed before January 1, 2021)* Defendant provided plaintiff with a declaration under penalty of perjury for the Centers for Disease Control and Prevention's temporary halt in evictions to prevent further spread of COVID-19 (85 Federal Register 55292 at 55297), and plaintiff's reason for termination of the tenancy is one that the temporary halt in evictions applies to. *(Describe when and how provided):*
Both the State COVID-19 Declaration and the CDC Declaration was served with the Motion to Quash, and is also attached to the Answer.
- q. ☐ *(For cases filed before January 1, 2021)* Plaintiff violated the federal CARES Act, because the property is covered by that act and *(check all that apply)*:
- (1) ☐ The federally-backed mortgage on the property was in forbearance when plaintiff brought the action. (15 U.S.C. § 9057.)
- (2) ☐ The plaintiff did not give the required 30 days' notice. (15 U.S.C. § 9058(c).)
- r. ☐ Other defenses and objections are stated in item 3s.
- s. *(Provide facts for each item checked above, either below, or, if more room needed, on form MC-025):*
☒ Description of facts or defenses are on form MC-025, titled as Attachment 3s.

4. OTHER STATEMENTS

- a. ☐ Defendant vacated the premises on *(date)*:

The Parties in the Trial Court Case

6 I/My client (check and fill in a or b):

- a. ☒ was a party in the case identified in 2.
- b. ☐ was not a party in the case identified in 2 but will be directly and negatively affected in the following way by the action taken or ruling made by the trial court (describe how you/your client will be directly and negatively affected by the trial court's action or ruling):

7 The other party or parties in the case identified in 2 was/were (fill in the names of the parties):
HECTOR PENA GOMEZ

Appeals or Other Petitions for Writs in This Case

8 Did you or anyone else file an appeal about the same trial court action or ruling you are challenging in this petition? (Check and fill in a or b):

- a. ☒ No
- b. ☐ Yes (fill in the appellate division case number of the appeal):

9 Have you filed a previous petition for a writ challenging this trial court action or ruling? (Check and fill in a or b):

- a. ☒ No
- b. ☐ Yes (Please provide the following information about this previous petition).

- (1) Petition title (fill in the title of the petition):
- (2) Date petition filed (fill in the date you filed this petition):
- (3) Case number (fill in the case number of the petition):

If you/your client filed more than one previous petition, attach another page providing this information for each additional petition. At the top of each page, write "APP-151, item 9."

Reasons for This Petition

10 The trial court made the following legal error or errors when it took the action or made the ruling described in 3 (check and fill in at least one):

- a. ☒ The trial court has not done or has refused to do something that the law says it must do.
- (1) Describe what you believe the law says the trial court must do: The Court must dismiss the Unlawful Detainer Action in that it is proceeding during the CDC Eviction Moratorium that expires on March 31, 2021. THIS IS AN ISSUE OF FIRST IMPRESSION.
- (2) Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court must do this: CDC Eviction Moratorium Extension, dated January 20, 2021.

10 (continued)

- (3) Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did not do or refused to do this: Minute Order, dated January 12, 2021.

☒ Check here if you need more space to describe the reason for your petition and attach a separate page or pages describing it. At the top of each page, write "APP-151, item 10a."

- b. ☒ The trial court has done something that the law says the court cannot or must not do.

- (1) Describe what the trial court did: The Court must dismiss the Unlawful Detainer Action in that it is proceeding during the CDC Eviction Moratorium that expires on March 31, 2021. THIS IS AN ISSUE OF FIRST IMPRESSION.

- (2) Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did this: Minute Order, dated January 12, 2021.

- (3) Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court cannot or must not do this: The Court must dismiss the Unlawful Detainer Action in that it is proceeding during the CDC Eviction Moratorium that expires on March 31, 2021.

☒ Check here if you need more space to describe the reason for your petition and attach a separate page or pages describing it. At the top of each page, write "APP-151, item 10b."

- c. ☒ The trial court has performed or said it is going to perform a judicial function (like deciding a person's rights under law in a particular situation) in a way the court does not have the legal power to do.

- (1) Describe what the trial court did or said it is going to do: The Court must dismiss the Unlawful Detainer Action in that it is proceeding during the CDC Eviction Moratorium that expires on March 31, 2021. THIS IS AN ISSUE OF FIRST IMPRESSION.

- (2) Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did or said it was going to do this: Minute Order, dated January 12, 2021.

10 (continued)

- (3) Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court does not have the power to do this:
The Court must dismiss the Unlawful Detainer Action in that it is proceeding during the CDC Eviction Moratorium that expires on March 31, 2021.

- ☒ Check here if you need more space to describe this reason for your petition and attach a separate page or pages describing it. At the top of each page, write "APP-151, item 10c."
- ☐ Check here if there are more reasons for this petition and attach an additional page or pages describing these reasons. At the top of each page, write "APP-151, item 10d."

11 This petition will be granted only if there is no other adequate way to address the trial court's action or ruling other than by issuing the requested writ.

- a. Explain why there is no way other than through this petition for a writ—through an appeal, for example—for your arguments to be adequately presented to the appellate division:
The Trial Court lacks jurisdiction to proceed on the Unlawful Detainer Action during the CDC Eviction Moratorium that expires on March 31, 2021. Neither President Trump nor President Biden were joking when they instructed the CDC to issue the Eviction Moratorium. THIS IS AN ISSUE OF FIRST IMPRESSION.
- b. Explain how you/your client will be irreparably harmed if the appellate division does not issue the writ you are requesting: The Trial Court will hold a Trial as early as March 16, 2021, to evict Petitioner when the U. S. CDC issued the Eviction Moratorium to stop Unlawful Detainer Actions to a certain date, presently ending on March 31, 2021.

Order You Are Asking the Appellate Division to Make

12 I request that this court (check and fill in all that apply):

- a. ☒ order the trial court to do the following (describe what, if anything, you want the trial court to be ordered to do): To dismiss Case No. LLTVA 2000547.
- b. ☒ order the trial court not to do the following (describe what, if anything, you want the trial court to be ordered NOT to do): To proceed in any manner in, and therefore dismiss Case No. LLTVA 2000547.

Petitioner alleges:

I. INTRODUCTION.

A. Nature of the Proceeding.

Henry Frederick Ramey, Jr., is the Petitioner to the Petition by him in Case No. CIVSB 2101966, in effect, seeking review of the Denial of his Petition for Writ of Mandate as to Case No. LLTVA 2000547, of who Plaintiff Hector Pena Gomez is the Real Party in Interest ("Real Party in Interest" or "Real Party").

The Order Denying the Petition for Writ of Mandate in Case No. CIVSB 2101966 was made on February 18, 2021. The Order Overruling the Demurrer Case No. LLTVA 2000547 was entered in the Minutes on January 12, 2021.

Petitioner sought review as to Case No. LLTVA 2000547, Because the Centers for Disease Control originally issued its Eviction Moratorium on September 4, 2020, which was set to expire on December 31, 2020. It has been extended three times:

1. It was extended by Congress, signed by President Trump, and set to expire on January 31, 2021.
2. It was extended by the Hon. Dr. Rochelle P. Walensky, M. D., M. P. H., Director, Centers for Disease Control, to March 31, 2021.
3. It was again extended by the Hon. Dr. Rochelle P. Walensky, M. D., M. P. H., Director, Centers for Disease Control, to June 30, 2021.

Yet, Real Party in Interest continues to prosecute the Unlawful Detainer Action, which is a misdemeanor under Federal Law on the basis of seeking the February 2020 rent that was paid on March 8, 2021. Because of the CDC Eviction Moratorium, the Superior Court lacks all jurisdiction to proceed in Case No. LLTVA 2000547 on May 11, 2021, or any other date.

Also, the ***APPELLATE DIVISION SHOULD HAVE BEEN LISTENING! HELLO?!!!*** Their action in refusing to hear Petitioner's in that Court gave the Superior Court the authority to act in excess of Petition for Writ of Mandate-Ramey v.

jurisdiction, since they no authority to evict Petitioner in violation of the CDC Eviction Moratorium.

B. Why Relief By Writ and a Stay are Warranted.

This Court should grant this Petition in that there is a dearth of cases dealing with the interpretation of the CDC Eviction Moratorium. The Trial Court lacks jurisdiction to proceed on the Unlawful Detainer Action against Petitioner during the CDC Eviction Moratorium that expires on now on June 30, 2021. Neither President Trump nor President Biden were joking when they instructed the CDC to issue the Eviction Moratorium. ***THIS IS AN ISSUE OF FIRST IMPRESSION.*** What doesn't help is that the Presiding Judge of the Appellate Division, the Hon. Lynn M. Poncin, is known to be biased against Unlawful Detainer Defendants, has ignored the Unlawful Detainer and other laws, and is blatantly disregarding Federal law in this case. It is time to end the solemn mockery of, and total disregard of Federal law, and to have the Superior Court dismiss Case No. LLTVA 2000547 as *ultra vires*.

Petitioner will suffer irreparable injury if this Court does not issue a Stay of the Order to Show Cause/Jury Trial held on May 11, 2021, in Department F6 of the Fontana Superior Court in that if Trial is held against Petitioner and he loses, he would removed by the Sheriff with a Writ of Possession that would still be illegal under the CDC Eviction Moratorium and frustrate the Centers for Disease Control and the United States as a whole ***DURING THE CORONAVIRUS PANDEMIC THAT WAS OTHERWISE FURTHERED AND EXACERBATED BY PRESIDENT TRUMP.***

II. PETITION.

By Verified Petition, Petitioner shows:

1. Real Party Hector Pena Gomez filed his Complaint for Unlawful Detainer on October 19, 2020, which is included with this Petition as Exhibit "1".
2. On December 28, 2020, Petitioner filed his Demurrer to the Complaint, which is included with this Petition as Exhibit "2".

3. On January 11, 2021, Petitioner filed his Declaration to the Ex-Parte Application to Advance the Hearing on Demurrer, which is included with this Petition as Exhibit "3".
4. Also on January 11, 2021, the Trial Court overruled the Demurrer of Petitioner.
5. On January 29, 2021, Petitioner filed his Answer, which is included with this Petition as Exhibit "4".
6. On February 11, 2021, Petitioner filed his Petition for Writ of Mandate against the Superior Court, which is included with this Petition as Exhibit "5".
7. On February 18, 2021, Respondent Court denied the Petition for Writ of Mandate, which is included with this Petition as Exhibit "6".
8. The Petition is timely. Nevertheless, because the Unlawful Detainer Complaint is still being prosecuted in violation of the CDC Eviction Moratorium that expires on June 30, 2021, and any proceeding against Petitioner is void as *ultra vires*.
9. The Petition should be granted, and a Stay is also warranted in that unless an appropriate writ is granted, Petitioner will be tried and may lose on the Unlawful Detainer Complaint and be removed by the Sheriff on a Writ of Possession in a case where the Superior Court lacks jurisdiction to hear and proceed in that the CDC Eviction Moratorium expires on June 30, 2021, prohibiting all residential evictions until said date. Petitioner has no adequate remedy at law or equity other than a writ.

WHEREFORE, Petitioner prays that this Court:

1. Issue a peremptory writ in this first instance directing the Appellate Division of the Superior Court to overturn the Order Denying the Petition for Writ of Mandate, and to enter an Order of granting the Petition for Writ of Mandate in favor of Petitioner;

///

MEMORANDUM OF POINTS AND AUTHORITIES.

I. COMPLAINT IS BARRED BY THE SERVICE OF THE CDC DECLARATION TEMPORARILY BARRING EVICTIONS.

Petitioner Henry Frederick Ramey, Jr., served his CDC Declaration on Plaintiff on October 9 and 12, and November 24, 2020. The purpose of the CDC Declaration is to bar Unlawful Detainer Actions until, now, June 30, 2021. No Unlawful Detainer Action should have been commenced after the Declaration after it was served on Real Party in Interest.

The Order stated in <https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293>, states in part that:

“Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.”

Section 502 of the latest COVID Relief Act states:

“SEC. 502. EXTENSION OF EVICTION MORATORIUM. The order issued by the Centers for Disease Control and Prevention under section 361 of the Public Health Service Act (42 U.S.C. 264), entitled “Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19” (85 Fed. Reg. 55292 (September 4, 2020) is extended through January 31, 2021, notwithstanding the effective dates specified in such Order.”

The Moratorium has since been extended to March 31, 2021, and now, June 30, 2021.

Here, this Action is barred.

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///

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Petition for Writ of Mandate-Ramey v.

16a

ARGUMENT.

I. THE COURT OF APPEAL LACKS JURISDICTION IN A CASE INVOLVING NATIONAL IMPORTANCE IN THAT THE UNLAWFUL DETAINER COMPLAINT IS BARRED BY THE SERVICE OF THE CDC DECLARATION TEMPORARILY BARRING EVICTIONS.

Petitioner Henry Frederick Ramey, Jr., served his CDC Declaration on Real Party in Interest on October 9 and 12, and November 24, 2020. The purpose of the CDC Declaration is to bar Unlawful Detainer Actions until, now, June 30, 2021. No Unlawful Detainer Action should have been commenced after the Declaration after it was served on Real Party in Interest. Accordingly, ***NOBODY IN THE APPELLATE DIVISION NOR THE COURT OF APPEAL WAS LISTENING.***

Petitioner sought review as to Case No. LLTVA 2000547, Because the Centers for Disease Control originally issued its Eviction Moratorium on September 4, 2020, which was set to expire on December 31, 2020. It has been extended three times:

1. It was extended by Congress, signed by President Trump, and set to expire on January 31, 2021.
2. It was extended by the Hon. Dr. Rochelle P. Walensky, M. D., M. P. H., Director, Centers for Disease Control, to March 31, 2021.
3. It was again extended by the Hon. Dr. Rochelle P. Walensky, M. D., M. P. H., Director, Centers for Disease Control, to June 30, 2021.

Yet, Real Party in Interest continues to prosecute the Unlawful Detainer Action, which is a misdemeanor under Federal Law on the basis of seeking the February 2020 rent that was paid on March 8, 2021, as part of Petitioner's then Chapter 13 Bankruptcy Plan, and which Petitioner already paid the previous owner Irina Hernandez \$450 on April 2, 2020, pursuant to her Three Day Notice to Pay Rent or Quit. Because of the CDC Eviction Moratorium, the Superior Court lacks all jurisdiction to proceed in Case No. LLTVA 2000547 on May 11, 2021, or any other date.

Petition for Review-Ramey v. Appellate Division

Also, the ***APPELLATE DIVISION AND COURT OF APPEAL SHOULD HAVE BEEN LISTENING! HELLO?!!!*** Their action in refusing to hear Petitioner's case in those Courts gave the Superior Court the authority to act in excess of jurisdiction, since they no authority to evict Petitioner in violation of the CDC Eviction Moratorium.

The Order stated in <https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19#footnote-5-p55293>, states in part that:

"Therefore, under 42 CFR 70.2, subject to the limitations under the "Applicability" section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order."

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The Moratorium has since been extended to March 31, 2021, and now, June 30, 2021.

Here, this Action is barred.

In addition, Judge Joel, the Judges on the Appellate Division, and the Justices on the Court of Appeal should be punished by doing Traffic Court in Counties, such as Modoc or Alpine. Federal law is Supreme under the Supremacy Clause. Adherence to Federal law is important, and these are the same type of Judges that ignore California law. See *People v. Vivar* (2021) <https://www.courts.ca.gov/opinions/documents/S260270.PDF>.
Petition for Review-Ramey v. Appellate Division

**[FORM] DECLARATION UNDER PENALTY OF PERJURY FOR
THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S TEMPORARY
HALT IN EVICTIONS TO PREVENT FURTHER SPREAD OF COVID-19**

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through January 31, 2021. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;¹
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020-2021 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary² out-of-pocket medical expenses;
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

¹ "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

² An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.³
- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on January 31, 2021, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to state and local laws.

Even if you have provided a declaration to your landlord, the Order does not prevent your landlord from seeking a hearing, if authorized by State or local law and in accordance with State or local court procedure, to challenge the truthfulness of your declaration.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Henry J. Pang, Jr. 1-27-21
Signature of Declarant Date

³ "Available housing" means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to you.

UNITED STATES CONSTITUTION

ARTICLE VI, CLAUSE II

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

UNITED STATES CODE

TITLE 42, SECTION 264

(a) PROMULGATION AND ENFORCEMENT BY SURGEON GENERAL

The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) APPREHENSION, DETENTION, OR CONDITIONAL RELEASE OF INDIVIDUALS

Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General.^[1]

(c) APPLICATION OF REGULATIONS TO PERSONS ENTERING FROM FOREIGN COUNTRIES

Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) APPREHENSION AND EXAMINATION OF PERSONS REASONABLY BELIEVED TO BE INFECTED

(1) Regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a qualifying stage and (A) to be moving or about to move from a State to another State; or (B) to be a probable source of infection to individuals who, while infected with such disease in a qualifying stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. For purposes of this subsection, the term "State" includes, in addition to the several States, only the District of Columbia.

(2) For purposes of this subsection, the term "qualifying stage", with respect to a communicable disease, means that such disease—

(A) is in a communicable stage; or

(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.

(e) PREEMPTION

Nothing in this section or section 266 of this title, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 266 of this title.

SECTION 502 OF THE LATEST COVID RELIEF ACT (DECEMBER 2020)

SEC. 502. EXTENSION OF EVICTION MORATORIUM. The order issued by the Centers for Disease Control and Prevention under section 361 of the Public Health Service Act (42 U.S.C. 264), entitled "Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19" (85 Fed. Reg. 55292 (September 4, 2020)) is extended through January 31, 2021, notwithstanding the effective dates specified in such Order.

CODE OF FEDERAL REGULATIONS

TITLE 42, SECTION 70.2

§ 70.2 Measures in the event of inadequate local control.

Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any of the communicable diseases from such State or possession to any other State or possession, he/she may take such measures to

prevent such spread of the diseases as he/she deems reasonably necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.

85 FED. REG. 55292

Therefore, under 42 CFR 70.2, subject to the limitations under the "Applicability" section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.