

SUPREME COURT OF WISCONSIN

IN RE THE MATTER OF LEGAL ACTION OF WISCONSIN,
INC.'S REQUEST FOR AN EVICTION MORATORIUM

FILED

MAY 21, 2021

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

You are hereby notified that the Court has issued the following order:

On May 12, 2021, Legal Action of Wisconsin, Inc. ("Legal Action") sent the court a letter asking that the court either: "1) enter an immediate, temporary order placing a moratorium on eviction actions in residential tenancies through June 30, 2021, due to the COVID-19 pandemic and the legal uncertainties surrounding the federal eviction moratorium; or 2) enter an immediate, temporary order placing a moratorium on any circuit court issuing a writ of restitution in residential eviction actions through June 30, 2021."

In its letter, Legal Action explains that it seeks this court-ordered eviction moratorium due to its concerns over the legal status of the Centers for Disease Control and Prevention's (CDC) nationwide eviction moratorium, set to expire June 30, 2021, which the CDC issued pursuant to the Public Health Service Act, 42 U.S.C. § 264. Legal Action notes that in a May 5, 2021 decision, the United States District Court for the District of Columbia held that because the Public Health Service Act does not grant the CDC the legal authority to impose the nationwide eviction moratorium, the moratorium must be vacated. See *Alabama Ass'n of Realtors v. United States Dep't of Health & Hum. Servs.*, No. 20-cv-3377, 2021 WL 1779282 (D.D.C. May 5, 2021). We note that the *Alabama Ass'n of Realtors* decision is now on appeal, and the district court has stayed its order vacating the nationwide eviction moratorium pending appeal. See *id.*, 2021 WL 1946376 (D.D.C. May 14, 2021).

In its letter, Legal Action asserts that the litigation surrounding the CDC's nationwide eviction moratorium has created confusion for litigants and courts alike. Legal Action insists that this court's ordering of "an immediate halt [to] all evictions in Wisconsin through June 30, 2021 . . . will not only prevent the spread of COVID-19, it will also bring clarity to courts, landlords, and tenants throughout Wisconsin."

We decline this request. Although this court is mindful of both the COVID-related financial challenges facing many landlords and tenants and the importance of limiting COVID's spread, the court is mindful, too, of its proper role. Legal Action essentially asks this court to weigh the interests of tenants, landlords, and public health, and to declare that, as a matter of policy, the balance must be struck in favor of protecting tenants from eviction. This is a legislative choice. To obtain the relief it wants, Legal Action must prove the merits of its request in the political arena, not here. See State v. Anagnos, 2012 WI 64, ¶43 n.12, 341 Wis. 2d 576, 815 N.W.2d 675 ("[W]e generally leave questions of public policy to the legislature.")

Therefore,

IT IS ORDERED that Legal Action of Wisconsin, Inc.'s request for an eviction moratorium is denied; and

IT IS FURTHER ORDERED that all filings in this matter are public, and are available on the court's website at <https://www.wicourts.gov/covid19.htm>.

ANN WALSH BRADLEY, J. (*concurring*). I write separately to observe that the nationwide moratorium on evictions remains in effect, given that the United States District Court for the District of Columbia has temporarily stayed its order vacating the eviction moratorium.

Page 3
May 21, 2021
In re the Matter of Legal Action of Wisconsin, Inc.'s
Request for an Eviction Moratorium

Alabama Ass'n of Realtors v. United States Dep't of Health and Hum. Servs., No. 20-cv-3377,
2021 WL 1946376 (D.D.C. May 14, 2021).

I also observe that this matter is being litigated in the federal court. Legal Action of Wisconsin fails to carry the burden of demonstrating what authority this court has, or with considerations of comity, should exercise in the instant situation.

I am authorized to state that Justice REBECCA FRANK DALLET and Justice JILL J. KAROFSKY join this concurrence.