

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
ASSOCIATE CIRCUIT COURT DIVISION**

Millenia Housing Management Ltd.,

Plaintiff,

v.

Gary Dewey, et al.,

Defendants.

Case No. 2016-CV12874

**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN SUPPORT OF TENANT/DEFENDANT**

Come now *Amici Curiae* American Civil Liberties Union and American Civil Liberties Union of Missouri and move this Court for leave to file a brief in support of the tenant who is facing eviction in this case. In support of their motion, they state:

1. The petition in this case appears to be barred by the CARES Act. The petition was filed on June 9, 2020. The property at issue has participated in federal programs and should be a covered property under the CARES Act. No verification pursuant to the CARES Act has been filed. Gary Dewey is a Defendant tenant in this unlawful detainer action who is not represented by counsel.

2. The American Civil Liberties Union (ACLU) is a nationwide, nonpartisan organization of over four million members, activists, and supporters dedicated to preserving the Constitution and protecting civil liberties.

3. The ACLU Women’s Rights Project, co-founded in 1972 by Ruth Bader Ginsburg, has been a leader in efforts to eliminate barriers to women’s full equality in American

society. These efforts include challenging housing discrimination experienced by women, with a focus on advancing their rights to obtain and maintain safe and secure housing. The ACLU has engaged in advocacy and litigation related to housing justice across the country and advocated for housing policies at the federal, state, and local levels.

4. The American Civil Liberties Union of Missouri (ACLU-MO) is a statewide, nonprofit, nonpartisan public interest organization dedicated to the preservation and promotion of civil liberties in Missouri. Since its founding, the ACLU of Missouri has frequently appeared before Missouri state and federal courts in cases involving constitutional questions, both as direct counsel and as *amicus curiae*. Unlawful detainer proceedings currently pending in state courts across Missouri raise serious due process problems and complex legal issues—because of the ongoing global pandemic, new federal law establishing an eviction moratorium covering many properties, closed courthouses and complicated remote proceedings, and new and extraordinary court forms and processes. Ensuring due process is guaranteed and protected in this case is, therefore, a matter of significant concern to the ACLU and its members throughout Missouri.

5. Permitting the *Amici* to participate in this case is particularly appropriate here because, a vast majority of defendant tenants are forced to proceed pro se. A judgment finding in favor of the Plaintiff landlord could render the Defendant tenant homeless during a pandemic. A pandemic that is getting worse in Missouri with positive COVID-19 cases steadily climbing daily. One need only turn on the news at any time of day to learn how bleak the situation is in our state. Just this week, localities have begun to order that all residents wear masks in public. A step not yet taken in this pandemic but one that is necessary given the rampant spread of the virus.

6. Since March 2020, more than 47.3 million workers across the country have

field for unemployment benefits. In Missouri, the unemployment rate is 10.1%.

7. Despite the pandemic and alarming unemployment rates, Missouri is one of just nine states that has not issued a statewide eviction moratorium during the pandemic.

8. Unfortunately, the impact of mass evictions in Missouri will overwhelmingly burden tenants of color and, in particular, Black women.

9. Because of the pandemic, Congress did enact the CARES Act to prohibit landlords from filing new eviction actions against tenants living in a wide range of properties that receive certain types of federal assistance, tax credits, and federally backed mortgage loans.

10. Determining whether a property is covered by the CARES Act, however, as the amici brief details, is an onerous and sometimes impossible task for tenants and even their advocates.

11. Amici seeks to file a brief to address the ongoing violations of tenants' constitutional and statutory rights arising from the current proceedings and to discuss the needed (but not currently provided) procedural protections as well as many complex issues raised by the pandemic and the CARES Act.

12. The *Amici's* brief is conditionally filed with this motion.

WHEREFORE *Amici* request this Court grant them leave to file a brief in support of neither party and allow such other and further relief as is proper under the circumstances.

Respectfully submitted,

/s/ Anthony E. Rothert

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically on June 30, 2020. A copy was also mailed to:

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/s/ Anthony E. Rothert