

IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. 2021-4143-CA-01

7X24 DATA, LLC, et al

Petitioners

v.

MIAMI-DADE COUNTY

Respondents

MOTION FOR LEAVE TO FILE
AMICI CURIAE BRIEF IN SUPPORT OF MIAMI-DADE COUNTY

Pursuant to Fla. R. App. P. 9.370, the Miami Worker’s Center, Legal Services of Greater Miami, Inc., and the University of Miami School of Law’s Tenants’ Rights Clinic (“Amici”), moves this Court for leave to file an *amici curiae* brief in support of Miami, and as grounds states as follows:

1. Miami Workers Center (MWC) is a non-profit membership-based organization comprised of primarily low-income Black and Latina women in South Florida who would be at imminent risk of eviction and the health dangers associated with the COVID-19 pandemic if Defendant Miami-Dade County’s eviction moratorium is

lifted. Founded in 1999, MWC currently has approximately 300 members who live in many of the most low-income and vulnerable neighborhoods in Miami.

2. Legal Services of Greater Miami, Inc. is non-profit law firm which has been providing free, civil legal assistance to low-income residents for 55 years. Legal Services has a long history of advocacy, direct legal representation, and systemic impact litigation to protect, defend, and advance the rights of low-income tenants in Miami-Dade County. Many of Legal Services' clients have been economically impacted by the pandemic, are facing eviction, and eligible to receive rental assistance to prevent their eviction. Many are in the same situation as the tenants facing eviction in the underlying case before this Court.

3. The University of Miami School of Law's Tenants' Rights Clinic is based at Legal Services of Greater Miami. For the past ten years, law students enrolled in the Clinic, working under the supervision of the Clinic Director, represent low-income families facing eviction. This year, the Clinic represents many clients who

are also impacted by the pandemic and in the same situation as the tenants facing eviction in the underlying case before this Court.

4. Collectively, these organizations are uniquely situated to appear as *amici curiae* because they can provide the Court with context and an understanding of how the moratorium impacts tenants. This is especially important since the tenants potentially impacted by this mandamus are not before this Court.

5. The proposed *amici curiae* brief is attached as Exhibit A. Pursuant to Rule 9.370, Counsel for the amici curiae conferred with counsel for the parties in this action. Respondents consent to the filing of this brief. The *amici curiae* did not receive confirmation of Petitioner's position prior to the filing of this brief.

WHEREFORE, the *amici curiae* respectfully request this Court to grant leave to file the attached *amici curiae* brief.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via notice of electronic filing to the following parties on this 18th day of March, 2021 to all attorneys listed to receive electronic service.

 /s/ Jeffrey M. Hearne
JEFFREY M. HEARNE, ESQ.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing complies with the Word-Count limit requirements and font requirements as required by Fla. R. App. P. 9.045(e).

/s/ Jeffrey M. Hearne
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EXHIBIT A

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**BRIEF OF AMICI CURIAE MIAMI WORKERS CENTER,
LEGAL SERVICES OF GREATER MIAMI AND UNIVERSITY OF
MIAMI SCHOOL OF LAW'S TENANTS' RIGHTS CLINIC,
IN OPPOSITION TO PETITIONERS'
PETITION FOR WRIT OF MANDAMUS**

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Dated: March 18, 2021

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STATEMENT OF INTEREST OF AMICI CURIAE

I. Miami Workers Center

Miami Workers Center (MWC) is a non-profit membership-based organization comprised of primarily low-income Black and Latina women in South Florida who would be at imminent risk of eviction and the health dangers associated with the COVID-19 pandemic if Defendant Miami-Dade County's eviction moratorium is lifted. Founded in 1999, MWC currently has approximately 300 members who live in many of the most low-income and vulnerable neighborhoods in Miami.

II. Legal Services of Greater Miami

Legal Services of Greater Miami, Inc. is non-profit law firm which has been providing free, civil legal assistance to low-income residents for 55 years. Legal Services has a long history of advocacy, direct legal representation, and systemic impact litigation to protect, defend, and advance the rights of low-income tenants in Miami-Dade County. Many of Legal Services' clients have been economically impacted by the pandemic, are facing eviction, and eligible to receive rental assistance to prevent their eviction. Many are in the same

situation as the tenants facing eviction in the underlying case before this Court.

III. University of Miami School of Law's Tenants' Rights Clinic

The University of Miami School of Law's Tenants' Rights Clinic is based at Legal Services of Greater Miami. For the past ten years, law students enrolled in the Clinic, working under the supervision of the Clinic Director, represent low-income families facing eviction. This year, the Clinic represents many clients who are also impacted by the pandemic and in the same situation as the tenants facing eviction in the underlying case before this Court.

SUMMARY

As Miami-Dade County residents continue to face one of the greatest challenges in the County's history—the COVID-19 pandemic—Petitioners seek execution of individual evictions that would exacerbate the County's pre-existing housing crisis, increase the spread of COVID-19 and put tenants and those similarly situated to *Amici Curiae* and their clients at imminent risk of serious illness and death. Petitioners do so without regard for the serious public health impact this would have not only on tenants who are subject

to eviction, but on the greater community, and during a critical period when vaccination rates are increasing and the County may be nearing an end to this year-long crisis.

When people are evicted, they must move into shelters, hotels, the homes of others or onto the street, thereby increasing the likelihood that either they or others will contract COVID-19. Any decision to terminate current eviction protections must take inevitable public health consequences into account.

Of tenants at-risk for eviction, Black and Latina women and their families face particularly significant risks. They are impacted by housing insecurity and eviction risks at significantly higher rates than their white counterparts. A recent study by the Institute for Policy Studies' and the National Domestic Workers Alliance found that in Miami-Dade, 90 percent of Black domestic workers reported being at risk of eviction or having their utilities shut off in the next three months.¹ Additionally, these women often serve as heads of

¹ Institute for Policy Studies' Black Worker Initiative, *Notes from the storm: Black Immigrant Domestic Workers in the Time of COVID-19*, IPS (Jun. 16, 2020) <https://ips-dc.org/wp-content/uploads/2020/06/Institute-for-Policy-Studies-We-Dream-in-Black-Survey-Data-Brief-6-16-20.pdf>.

households with multiple family members who rely on them, including children, elderly parents and other dependents who are similarly at risk of displacement and COVID-19.

Allowing Petitioners to execute the writs of possession and displace people at the current time would result in multiple individuals being forced to find immediate shelter at various and unknown areas within the County, placing those individuals and the countless people they will come into contact with at increased risk of contracting COVID-19. For the reasons set forth below, *Amici Curiae* respectfully urges this Court to deny Petitioners' writ of mandamus.

ARGUMENT

II. Miami-Dade County Residents Continue to Face a Health and Housing Affordability Crisis Caused by the COVID-19 Pandemic.

For more than a year, Miami-Dade County residents have lived in a hotspot of COVID-19, a virus that to date has resulted in more than 500,000 deaths in the United States.² On March 11, 2020, the

² Lucy Tompkins, Mitch Smith, Julie Bosman & Bryan Pietsch, *Entering uncharted territory, the U.S. counts 500,000 Covid-related deaths.*, N.Y. Times (Feb. 22, 2021), <https://www.nytimes.com/2021/02/22/us/us-covid-deaths-half-a-million.html>.

World Health Organization (WHO) declared COVID-19 a global pandemic,³ and within just a few months, Miami-Dade County had become central to that pandemic.⁴ Indeed, as virus transmission rates fall around the country, Miami-Dade County continues to log an average more than 1,000 new transmissions per day, representing more than one-fifth of all new cases in the state.⁵ Additionally, experts believe that Florida has the highest U.S. rate of transmission of highly contagious COVID-19 variants.⁶

³ Tedros Adhanom, *WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020*, World Health Organization (Mar. 11, 2020), <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

⁴ Alexander Nazaryan & Laura Ramirez, *Miami is a new coronavirus hot spot, internal CDC document says*, Yahoo News! (Jul. 10, 2020), <https://news.yahoo.com/miami-is-a-new-coronavirus-hotspot-internal-cdc-document-says-162804209.html>.

⁵ Jordan Allen et al., *Florida Coronavirus Map and Case Count*, N.Y. Times (Mar. 17, 2021), <https://www.nytimes.com/interactive/2020/us/florida-coronavirus-cases.html>.

⁶ Lauren Leatherby & Scott Reinhard, *More Contagious Variant Is Spreading Fast in U.S., Even as Overall Cases Level Off*, N.Y. Times (Mar. 6, 2021), <https://www.nytimes.com/interactive/2021/03/06/us/coronavirus-variant-sequencing.html>.

a. The County Is Approaching an End to the COVID-19 Crisis.

While concerns regarding COVID-19 and the spread of virus variants persist, rates of vaccinations in the County continue to rise.⁷ Experts are optimistic that the COVID-19 pandemic will largely resolve with the distribution of vaccines and ongoing public health precautions.⁸ Despite that, Petitioners seek to enforce eviction judgments and displace numerous households, thereby potentially increasing the rapid spread of COVID-19, just as the County may be approaching an end to this health crisis. Moreover, the tenants who would be specifically impacted if the Petition is granted have not even had an opportunity to receive notice and appear before this Court. *See Morse Diesel Intern., Inc. v. 2000 Island Blvd., Inc.*, 698 So.2d 309 (Fla. 3d 1997) (“[W]here it appears that real and substantial interests

⁷ Ryan Nicol, *South Florida has now fully vaccinated more than 500K against COVID-19*, Florida Politics (Mar. 4, 2021), <https://floridapolitics.com/archives/409051-south-florida-vaccinated-500k-covid>.

⁸ Alvin Powell, *Vaccines can get us to herd immunity, despite the variants*, The Harvard Gazette (Feb. 25, 2021), <https://news.harvard.edu/gazette/story/2021/02/vaccines-should-end-the-pandemic-despite-the-variants-say-experts/>.

of third parties not before the court are involved, mandamus will not lie, unless the claims appear unreal and imaginary.” quoting *Allen v. School Bd. of Broward County*, 522 So.2d 1036, 1037 (Fla. 4th DCA 1988)).

Allowing Petitioners to proceed with the mandamus also forecloses opportunities for tenants to obtain rental assistance through the Emergency Rental Assistance Program and for *Amici* to conduct critical outreach and education that could facilitate resolving similar and related matters. As of March 12, 2021, 9,899 eviction cases have been filed and more than 2,000 writs issued.⁹ The County has just begun to administer \$60 million in federal rent assistance, with another \$21 million in City of Miami and Hialeah coffers. Florida is poised to receive hundreds of millions more in funding from the American Rescue Plan Action that will compensate landlords and help homeowners avoid foreclosure.¹⁰ The County is

⁹ Monthly Report on Countywide Evictions Data (March 2021), Miami-Dade Board of County Commissioners.

¹⁰ American Rescue Plan Act, NLIHC (March 2021), https://nlihc.org/sites/default/files/COVID-Relief-Budget_Reconciliation.pdf?utm_source=NLIHC+All+Subscribers&utm_campaign=5ea01e949e-DHRC-Update-

currently in the process of administering and distributing these funds directly to landlords. Additionally, if the Court grants the mandamus, the impacted tenants would be denied the opportunity to access these funds and Petitioners would be unable to seek compensation for back rent from available federal sources.

b. Resuming Evictions Would Exacerbate and Prolong this Crisis.

On March 12, 2020—one day after the WHO’s declaration of a global pandemic—Miami-Dade County Mayor Carlos Gimenez announced that police officers would temporarily stop removing tenants.¹¹ The decision to do so followed significant debate the prior year regarding acting on eviction orders during states of emergency—a debate that led the County to pass a resolution staying execution of writs of possession from certain evictions during declared

[3.15.2021&utm_medium=email&utm_term=0_e090383b5e-5ea01e949e-293265613&ct=t\(DHRC-Update-3.15.2021\)](https://www.miamiherald.com/article248025900.html).

¹¹ Rene Rodriguez, *The eviction moratorium has ended, but another one kicks in. Here’s what it means*, Miami Herald (Dec. 31, 2020), <https://www.miamiherald.com/article248025900.html>.

emergencies and encouraging other policy changes to protect tenants during evictions.¹²

The County's March 12, 2020 announcement supported the theory that displacement of entire households by eviction not only threatens the welfare of those families, but threatens the health of the entire community during a time of rapid COVID-19 spread. Indeed, on September 4, 2020, the Centers for Disease Control and Prevention (CDC) issued a moratorium on evictions, with a stated justification "to prevent the further spread of COVID-19."¹³

Even with the national eviction moratorium in place, tenants face eviction under certain circumstances, and these evictions highlight the ongoing public health risk. Earlier this year, a landlord in Broward County sought to evict two adults and six children from

¹² Jess Nelson, *Miami-Dade Suspends Evictions from Public Housing During Hurricanes*, Miami New Times (Nov. 22, 2019) <https://www.miaminewtimes.com/news/miami-dade-county-votes-to-suspend-evictions-from-public-housing-during-hurricanes-11319140>; *Resolution and Agenda Item No. 11(A)(3)*, Miami-Dade County Board of Commissioners (Nov. 19, 2019) <http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2019/192349.pdf>.

¹³ Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (Sept. 4, 2020).

their rental property during a period when all eight family members had tested positive for COVID-19.¹⁴ Displacement of a family of eight COVID-positive individuals could lead to unpredictable and uncontrollable spread of the virus, as family members might be split up and exposed to many other people as they seek shelter.

Indeed, a resumption in evictions would result in County residents having to make impossible choices regarding their health safety and that of their families, such as whether to seek shelter in a crowded facility or with other family members or friends, where they could be exposed to COVID-19. A study from November 2020 determined that lifting eviction moratoriums was associated with increased COVID-19 incidence and mortality.¹⁵ Allowing evictions to proceed could cause an increase in COVID-19 transmission rates at a time when vaccination rates are rising and the County may be near

¹⁴ Caitie Switalski Muñoz, *The CDC Moratorium And Month-To-Month Leases: Evictions In South Florida Are Still Happening*, WLRN (Feb. 11, 2021) <https://www.wlrn.org/news/2021-02-11/the-cdc-moratorium-and-month-to-month-leases-evictions-in-south-florida-are-still-happening>.

¹⁵ Kathryn M. Leifheit, et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (Nov. 30, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576.

an end to this crisis. Executing the evictions underlying this matter would displace numerous households who would face the same risk—and create the same risk.

III. Of Miami-Dade County Residents, Low-Income Black and Latina Women Are Particularly Vulnerable.

Miami-Dade County residents faced a housing affordability crisis prior to the COVID-19 pandemic. Among all renters in the United States, Floridians face the second highest rate of eviction risk of any state.¹⁶ More than four out of 10 County residents spend greater than 30 percent of their income on housing, a sign that they are disproportionately cost-burdened by this expense.¹⁷ Of major metropolitan areas, that figure ranks Miami-Dade County second in the nation, after just Los Angeles.¹⁸ When tenants are cost-burdened by housing costs, it means they are more at risk of falling behind on

¹⁶ *Supra* note 11.

¹⁷ Richard Florida & Steven Pedigo, *Miami's Housing Affordability Crisis*, Florida International University (Mar. 2019) https://carta.fiu.edu/mufi/wp-content/uploads/sites/32/2019/03/Miamis_Housing_Affordability_Crisis_FNL.pdf.

¹⁸ *Id.*

rental or housing payments (and facing eviction) when any other unexpected costs, such as medical expenses, come up.

These figures are even starker for households headed by single women, of which approximately 65 percent spend greater than 30 percent of their income on housing.¹⁹ In a 2017 report to the United Nations Special Rapporteur on Extreme Poverty and Human Rights, *Amicus* Miami Workers Center noted that “[h]alf of single female heads of households in Miami earn \$18,500 or less per year, and 30% of single female heads of households earn less than \$15,000 a year. According to the Family Economic Self-Sufficiency Standard, 86% of single female headed families in Miami live below the self-sufficiency standard.”²⁰ Additionally, approximately 70 percent of Black and Latinx Miami renters spend greater than 30 percent of

¹⁹ Miami Workers Center, et al., *The Feminization of Poverty in Miami: Building a Femme Agenda for Women & Femmes of Color (A Report to the Special Rapporteur on Extreme Poverty and Human Rights in advance of his December 2017 Official Visit to the United States)* (Oct. 2017), <https://www.ohchr.org/Documents/Issues/Poverty/VisitsContributions/USA/MWCAPTCJP.pdf>.

²⁰ *Id.*

their income on housing.²¹ These figures indicate that Black and Latina women are the most cost-burdened by housing costs in Miami-Dade County—a reality that does not fare well for the Black and Latina women whom *Amici* represent.

a. COVID-19 and the Associated Health Risks Disproportionately Impact Black and Latina Women.

Rates of hospitalization due to COVID-19 disproportionately affect Black and Latina women in the United States. According to the CDC, hospitalization rates for Black and Latinx people were approximately 4.7 times that of non-Hispanic white people.²² In Miami-Dade County, nearly 90 percentage of residents are either Black or Latinx,²³ placing the majority of the County at a heightened risk for hospitalization related to COVID-19.

²¹ *Id.*

²² William F. Marshall, *Coronavirus infection by race: What's behind the health disparities?*, Mayo Clinic (Aug. 13, 2020) <https://www.mayoclinic.org/diseases-conditions/coronavirus/expert-answers/coronavirus-infection-by-race/faq-20488802>.

²³ Quick Facts, Miami-Dade County, Florida, *U.S. Census Bureau*, <https://www.census.gov/quickfacts/fact/table/miamidadecountyflorida/POP060210>.

In addition to facing increased health risks associated to COVID-19, Black and Latina women are more at risk of eviction than their white or male counterparts—both before and during the pandemic. Prior to the COVID-19 pandemic, landlords filed evictions against Black renters at double the rates as against white renters.²⁴ In a study of U.S. Census Bureau data by the National Women’s Law Center, nearly 40 percent of Black women with children in their households reported being behind in rent; 17 percent reported being behind on their mortgage.²⁵ Rates of Black women in Miami living in poverty are at 31.1 percent, compared to 12.3 percent for White women.²⁶

²⁴ Sophie Beiers, Sandra Park & Linda Morris, *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color*, ACLU (Jan. 10, 2020) <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

²⁵ Jasmine Tucker & Claire Ewing-Nelson, *As Eviction Deadline Looms, Black, Non-Hispanic Women Are Over Two Times More Likely Than White, NonHispanic Men to Be Behind on Rent or Mortgage Payments*, NWLC (Dec. 2020) <https://nwlc.org/wp-content/uploads/2020/12/pulseFS12.pdf>.

²⁶ *Supra* note 19 at 3.

As the entire country struggled with rising unemployment rates associated with COVID-19, Black workers were hit extremely hard. In a survey of Black immigrant domestic workers in three areas of the country (including Miami-Dade County), 70 percent of workers had either lost their jobs or had their hours and pay reduced by at least 25 percent by June 2020—less than three months into the pandemic.²⁷ Of the Miami-Dade County survey respondents, 94 percent reported being at risk of eviction or utility cut-off within the next three months.²⁸ Even if their work eventually returns to pre-pandemic levels, most low-wage workers do not have the resources or income to make up for the lost income and past due rent.

Members of the *Amicus* Miami Workers Centers exemplify the people most impacted by the pandemic. For example, one member, Tayana Gibbs, lost her job as a licensed massage therapist in March 2020, as a result of the pandemic. Ms. Gibbs applied for rental assistance through the County’s Emergency Rental Assistance Program. She owes two months of rent payments that she was unable

²⁷ *Supra* note 1.

²⁸ *Id.*

to make while unemployed, and is extremely anxious about her housing insecurity.

Jeanne Moise, also a member of *Amicus* Miami Workers Center, had a career in the hospitality industry and was set to begin training and a new position on March 13, 2020. As a result of the pandemic, that position was terminated before it started, and Ms. Moise has not been able to find work since then. Ms. Moise had saved up considerable money towards purchasing a home. Since then, she has had to use all her savings to pay her rent. After being unable to make her October and November rent payments in full, Ms. Moise had an eviction filed against her by her landlord.

b. When Black and Latina women Are Displaced by Eviction, Family Members and Children Also Face Increased Health Risks.

The negative impact of an eviction on a mother and her children permeates multiple critical areas of life. One study comparing evicted mothers to non-evicted counterparts found that “mothers who were evicted in the previous year experienced more material hardship, were more likely to suffer from depression, reported worse health for themselves and their children, and reported more parenting stress. Some evidence suggests that at least two years after their eviction,

mothers still experienced significantly higher rates of material hardship and depression than peers.”²⁹ Vivian Smith, a member of *Amicus* Miami Workers Center, has been evicted in the past and felt the stressful impact of not just that eviction, but numerous subsequent rental application rejections—all based on her prior eviction history.

The harmful impact of evictions also affects family members, including children. During the period when she was facing eviction, Ms. Gibbs experienced an anxiety attack that resulted in emergency medical care. Her son, who attends school virtually in the home to avoid exposure to COVID-19, began to worry about the eviction, and his school performance suffered.

Ms. Moise worries about the lasting impact of an eviction on her 17-year-old son. She believes it would negatively impact his schooling and his mental health. Additionally, her son has severe asthma, which places him at greater risk during the pandemic. If Ms. Moise

²⁹ Matthew Desmond & Rachel Tolbert Kimbro, *Eviction’s Fallout: Housing, Hardship, and Health*, Social Forces Advance Access (Feb. 24, 2015), available at https://www.rootcausecoalition.org/wp-content/uploads/2016/07/desmondkimbro.evictions.fallout.sf2015_2.pdf.

and her son are displaced from their home, his health would be at serious risk. These tenants' stories are representative of thousands of tenants across the County whose family's shelter and health have been protected and prioritized by the County during this state of emergency.

CONCLUSION

For the reasons discussed above, *Amici Curiae* Miami Workers Center, Legal Services of Greater Miami and University of Miami School of Law's Tenants' Rights Clinic respectfully request that the Petition for Writ of Mandamus be denied.

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