

**Legal Alert: United States Supreme Court Issues Injunction Pending Appeal
Against Part of the COVID-19 Emergency Eviction And Foreclosure Prevention Act
of 2020**

August 13, 2021

On August 12, 2021, the United States Supreme Court granted an injunction staying enforcement of Part A of the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 ("CEEFPFA"), including the hardship self-certification provision. That provision stayed eviction proceedings based merely upon a residential tenant's hardship declaration, thus presuming the tenant was being truthful in asserting that COVID-19 impacted their financial situation. The Supreme Court rejected this procedure as unconstitutional because it prevented the landlord from contesting the declaration. The court stated the following in pertinent part: "Part A of CEEFPFA generally precludes a landlord from contesting that certification and denies the landlord a hearing. This scheme violates the Court's longstanding teaching that ordinarily 'no man can be a judge in his own case' consistent with the Due Process Clause." If you wish to read the opinion, you may click on this [link](#).

As a result of the injunction, courts are now prohibited from enforcing all of CEEFPFA Part A's requirements and provisions. How the Office of Court Administration and New York Legislature will respond to this ruling and how this injunction will be interpreted and applied remains to be seen. However, at a minimum, landlords should now be able to move for a court to determine the validity and good faith of a residential tenant's COVID-19 hardship declaration. The onus should then be on the Tenant to show, through competent proof, that their declaration of hardship was, in fact, valid.

The injunction also does not affect the Tenant Safe Harbor Act.

We will keep you advised as further information becomes available.

If you have any questions or would like to discuss this decision further, please contact one of our landlord-tenant attorneys.