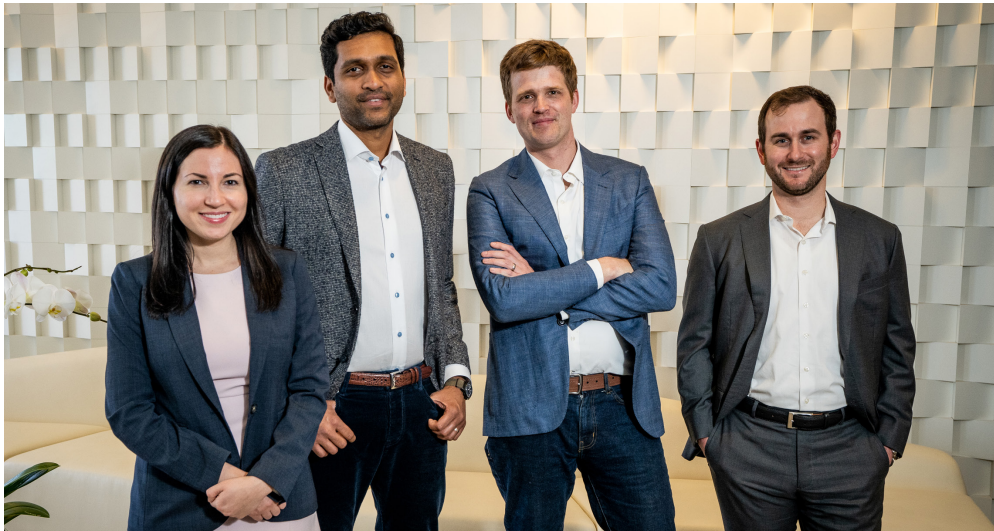


Daily Journal

APRIL 12, 2023

THE 2023 CLAY Awards



HALLEY JOSEPHS, ROHIT NATH, GLENN BRIDGMAN AND NICK SPEAR / PHOTO CREDIT: JUSTIN STEWART

Four-lawyer team saves hundreds of thousands from eviction

ROHIT D. NATH, NICHOLAS SPEAR, HALLEY JOSEPHS AND GLENN BRIDGMAN, SUSMAN GODFREY LLP

— APT. ASSOC. OF L.A. CNTY., INC. V. CITY OF LOS ANGELES, ET AL —

Early in the pandemic, landlord groups began suing cities and counties seeking to strike down the municipalities' bans on evicting tenants who were locked down at home and unable to work. Against the landlords' constitutional challenges, a quartet of Susman Godfrey attorneys fought back on behalf of tenants to save the eviction moratoria, scoring several important victories in trial and appellate courts.

As a result of their efforts, ACCE Action estimates as many as 800,000 vulnerable tenants across California were able to hang on to their homes during the pandemic.

In conjunction with Public Counsel, the lawyers represent two community advocacy groups as intervenors in two lawsuits in Los Angeles, one in San Diego and a fourth in Alameda. Their real clients, however, are tenants.

Since the lawsuits technically pitted landlords against local governments, "we felt it was very important to ... make sure the tenants also had a voice in the process," said Nicholas Spear. Beyond legal advocacy, the attorneys provided "the assurance to tenant groups that there was somebody there fighting for them."

Rohit D. Nath, who spearheaded Susman's involvement in the litigation, said that through the community groups, his team had access to information and witnesses the municipalities didn't. "We were able to tell [tenants'] stories to the courts to help illustrate the critical importance of these moratoria to avoid, frankly, a housing disaster" if there had been widespread evictions early in the pandemic, he said.

In the first two lawsuits, landlord groups raised constitutional challenges to the moratoria under

the contracts clause. The third and fourth actions sought damages for lost rent under the takings clause.

The counterargument was basically the same in all the cases, Nath said. "For over 100 years, the Supreme Court has time and again recognized that cities, counties and state governments have the flexibility to act to protect the health and safety of their residents in a time of emergency," he said. "If there's an extreme emergency that's threatening the housing of millions of people, the government should have some latitude to fix that."

The first of the lawsuits hit within months of the early shelter-in-place orders. A landlord group sought a preliminary injunction against L.A.'s eviction moratorium. The Susman team blocked the injunction and then successfully defended their win at the 9th U.S. Circuit Court of Appeals. Apartment Association

of *L.A. County Inc. v. City of Los Angeles*, 2:20-cv-05193 (C.D. Cal., filed June 11, 2020).

The circuit's August 2021 decision was the first appellate ruling in the country to reject a constitutional challenge to a local eviction moratorium, and it has been cited frequently in similar victories across the country. "At this point, there's a robust body of caselaw built up,

and I think what started the boulder rolling down the mountain was the 9th Circuit decision," Glenn Bridgman said.

The team's second case, involving San Diego County's moratorium, proceeded similarly to the first. The third, against Los Angeles, and the fourth, against the county of Alameda, raised a different issue but met about the same fate. The latter two

are now pending at the 9th Circuit.

Nath said he and his co-counsel felt privileged to represent the community groups in these cases. They are also proud to have been able to help create "a body of precedent to deal with the next emergency."

– DON DEBENEDICTIS