



THE FOODMAN FIRM
MEET YOUR EXPECTATIONS

AUGUST 2021



WHO WE ARE

WITH NEARLY **TWENTY YEARS** OF EXPERIENCE HANDLING **COMPLEX, HIGH-STAKES** MATTERS FOR A VARIETY OF CLIENTS – BOTH **INDIVIDUALS** AND **CORPORATIONS**, **DOMESTIC** AND **INTERNATIONAL** – **THE FOODMAN FIRM CONSISTENTLY PRODUCES** VALUE-DRIVEN **RESULTS** FOR OUR CLIENTS, WITH AN EMPHASIS ON **QUALITY OVER QUANTITY**.

OUR PRIMARY FOCUS AT **THE FOODMAN FIRM** IS TO PROVIDE OUR CLIENTS WITH THE MOST EFFECTIVE COUNSEL, AND TO **FOSTER LONG-TERM RELATIONSHIPS** THAT OUR CLIENTS CAN DEPEND ON.

THE FOODMAN FIRM TAILORS ITS INNOVATIVE FEE STRATEGIES TO MEET THE INDIVIDUAL NEEDS OF EACH CLIENT.

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THE POLITICAL JOCKEYING OVER EVICTIONS

The Covid-19 eviction moratorium expired at the end of July, but the public blame game surrounding a new moratorium continued.

Under the threat of millions of Americans being evicted that are behind on rent due to the pandemic, politicians let the moratorium expire without acting. On June 29, 2021, the United State Supreme Court issued an opinion in the case of Alabama Association of Realtors et al. v. Department of Health and Human Services, in which Justice Kavanaugh in a concurring opinion stated that the CDC had exceeded its statutory authority by issuing a nationwide eviction moratorium, and that clear and specific congressional authorization would be needed for the CDC to extend it beyond the July 31, 2021, deadline.

Speaker of the House, Nancy Pelosi, called on the CDC and the White House to extend the eviction moratorium instead of Congress, despite the ruling by the Supreme Court. The White House responded by stating that it does not currently believe that it has the legal standing to do so, but that any potential alternatives will be investigated. Additionally, the White House rightfully called on Congress

to act so that the new moratorium will comply with the Supreme Court's decision. The CDC responded similarly, stating that it has been unable to find legal authority for a new, targeted eviction moratorium.

On August 3, because Congress had not acted, and notwithstanding the Supreme Court decision, the CDC issued a new targeted eviction moratorium through October 3 in areas with substantial and high transmission rates of Covid-19. It appears the new directive was done strategically to avoid a nationwide moratorium and further legal challenges. The White House still anticipates that this moratorium will face legal obstacles, but it believes that enacting a moratorium on shaky legal grounds would be better than not having one while millions are facing housing uncertainty. Originally the White House stated that they would not be seeking to extend the moratorium beyond the July 31 end date barring an increase in Covid cases, but with



the increase in cases and variants around the country, the Administration is seeking to keep the moratorium going forward.

Ideally, Congress should act to enact a moratorium that is safe from future legal challenges instead of asking for action from other governmental bodies. With over 10 million Americans behind on rent that would be facing potential eviction, continued uncertainty based on the legality of the moratorium would only further add to their problems. Evictions have devastating effects on families, and result in crowded living situations that only increase the spread of Covid-19.

When considering the moratorium, the government must balance the financial interests of landlords with the living situations of tenants.

The legal challenges have arisen from landlord's claims that the CDC does not have the authority to, in effect, take control of their properties by preventing them from evicting tenants behind on rent. This argument may have been considered by the Supreme Court given that it determined that Congress needs to address this issue rather than the CDC.

Landlords, of course, fear that keeping the moratoriums active will provide immense financial burdens if they are unable to collect any rent payments and not bring in new tenants. While this is certainly true, given the unusual circumstances of Covid-19, the millions of people who are unable to pay rent through no fault of their own because of the pandemic must be considered.

Certainly, this is not an easy decision for the government to weigh, but due to the pandemic, the threat of eviction should not be uncertain, and Congress should act one way or the other so at least families can plan and not be living on edge. Given the Supreme Court's decision, it is incumbent on Congress to act and not blame others when they are the only ones with the authority to pass a moratorium. Congress must act now to put Americans minds at ease and allow them to focus on getting back on track on their rent payments, instead of worrying about being evicted.

AMAZON'S SHIFT FROM ARBITRATION

Customer disputes against Amazon will no longer have a requirement to be resolved in arbitration.

Instead, Amazon's conditions of use page now provides that "any dispute or claim relating in any way to your use of any Amazon service will be adjudicated in the state or federal courts in King County, Washington, and you consent to exclusive jurisdiction and venue in these courts." The sudden change without a public announcement, according to the Wall Street Journal, was the result of more than 75,000 pending arbitration demands from users of various Amazon Echo devices alleging improper recording and preservation of conversations in their homes and personal spaces.

Previously the number of arbitration claims with Amazon, generally, was limited because consumers were less likely to bring claims in arbitration than in the court system. However, something changed with the Amazon Echo. Because of the increase in costs, and the apparent reduction of customer fear in arbitrating disputes, the cost benefit analysis for Amazon shifted and evidently it now favors the court system.



Consumer advocate groups are excited by the idea of Amazon's customer disputes entering the court system, instead of the non-public arbitration system. In the view of these groups, with the move away from arbitration comes the potential of negative public court rulings may cause companies like Amazon to act in a manner that is more beneficial to consumers. Alternatively, one potential negative impact to the consumer from the change to the court system, may be that Amazon raise prices to compensate for the increased exposure in the court system. In addition, consumers with smaller claims may have difficulty litigating against companies like Amazon in the court system given the cost of litigation.

Amazon's shift away from arbitration may be a sign of decisions to come from companies with similar arbitration provisions. Ultimately the choice between arbitration and the court system is a cost benefit analysis, and if consumers are not hesitant to bring claims in arbitration, companies will have to weigh the increased costs of arbitrating against the potential public backlash from negative court decisions.



THE FOODMAN FIRM

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