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Consumer Watchdog Group Issues Policy to Strengthen National Eviction Moratorium

"Since the eviction moratorium has been in effect, housing advocates and renters have said a lack of enforcement has led to landlords ignoring the law and pushing out tenants anyway."

Why this is important: The Center for Disease Control eviction order precludes a landlord, owner of residential property, or any entity that owns residential property from evicting a tenant in any jurisdiction for non-payment of rent. The CDC order does not cover foreclosure of a home mortgage or preclude evictions unrelated to non-payment of rent. Attorneys for landlords and other debt collectors who wrongly evict tenants also could face federal and state prosecution according to the CFPB. In addition, these debt collectors now must provide tenants notice of their rights under the eviction ban in writing and on the same date an eviction notice is served. **The announcement is a sign that the Biden administration plans to more aggressively enforce the CDC national ban on evictions first issued by the Trump administration in September.** --- [Bryce J. Hunter](#)

TransUnion v. Ramirez: Supreme Court Considers Significant Class Certification Issue

"The outcome of the case could have a significant impact on class action certifications."

Why this is important: On March 30, 2021, the U.S. Supreme Court heard oral arguments in *TransUnion LLC v. Ramirez*, a case significant for its potential role in the evolving jurisprudence surrounding Article III standing. Over the past few years, defendants have asserted lack of standing under Article III of the U.S. Constitution in response to what is believed to be an "expansive and abusive use of class litigation, particularly in cases involving statutory damages," such as the Fair Debt Collection Practices Act and the Telephone Consumer Protection Act. In *Spokeo v. Robins*, the U.S. Supreme Court held that a plaintiff must allege injury that is both "concrete and particularized" to meet the Article III standing requirement. Hence, legal argument focuses on framing "concrete and particularized."
TransUnion LLC -- a case in which 75 percent of the class certified was unaware the

offending alert had been put on their credit report -- is a case to watch for further refinement. --- [Debra Lee Allen](#)

The Folly of Debit and Credit Card Price Controls

"At a recent Congressional hearing, he accused Visa and Mastercard of 'waiting for an opportunity to get even again' because of losses incurred from his debit card price controls, and of setting rates 'far in excess of any reasonable measure of cost.'"

Why this is important: As part of the Dodd-Frank Act passed in 2010, Congress enacted a limitation on the "swipe fees" permitted when a debit card is used for making purchases. The limitation did not apply to fees for credit card transactions. The cap on swipe fees for debit card purchases was supposed to result in savings for consumers in the form of lower prices. These savings, however, failed to occur as merchants did not lower prices. Instead, one study showed that "card issuers reduced consumer benefits like free checking accounts, offering them 35 percent less often" and reduced reward programs. Congress currently is considering whether the limitation on swipe fees also should apply to credit card transactions. **Any change to permitted swipe fees will have wide-reaching consequences for merchants, card issuers, and interchange networks. Businesses should be aware of the potential change and stay alert for potential legislation regarding the same.** --- [Angela L. Beblo](#)

11th Circuit Holds Transmitting Data to Mail Vendor is Unauthorized Third-Party Disclosure

"In Hunstein, the consumer argued that sending a data file with consumer information to a mail house to prepare and mail a collection letter is an action 'in connection with' the collection of a debt, and thus an unauthorized third-party disclosure in violation of 15 USCA §1692c(b)."

Why this is important: So much already has been written about the *Hunstein* 11th Circuit decision that readers of *All Consuming* likely already know what it says. In a nutshell, a collector was seeking to collect a debt from Hunstein. That collector, like many others, used vendors related to its work. One of those vendors was a letter vendor to which it would send data regarding individuals' debts. The letter vendor would then use that data to create collection letters. Hunstein claimed providing data about his debt to the letter vendor violated section 1692c(b) of the FDCPA, which prohibits debt collectors from communicating consumers' personal information to third parties in connection with the collection of any debt. The collector moved to dismiss the suit, and the district court granted that motion. On appeal, a panel of judges from the 11th Circuit found that providing the data to the letter vendor was a prohibited communication "in connection with" debt collection and disagreed with the collector's argument that the data was provided not "in connection with" debt collection, but merely "related to" its work in debt collection. **The effect of the 11th Circuit's ruling is that collectors who use vendors in any capacity related to their collection work will have to review whether that use might be argued to involve communicating consumers' personal information to third parties in connection with the collection of any debt.** Even the 11th Circuit recognized the possible scope of its decision and its consequences. "It's not lost on us that our interpretation of section 1692c(b) runs the risk of upsetting the status quo in the debt-collection industry, . . . [and] we doubt that [letter vendors] routinely read, care about, or abuse the information that debt collectors transmit to them. . . . Needless to say, if Congress thinks we've misread section 1692c(b) - or even that we've properly read it but that it should be amended - it can say so." The collector has indicated it intends to file a petition for rehearing before the entire 11th Circuit, which petition is due within the next couple weeks. --- [Nicholas P. Mooney II](#)

New Federal Regulations Could Spur Cryptocurrency Crash

"On top of reports that President Biden is looking to hike capital gains taxes for the rich, there were rumors that Yellen wants a jaw-dropping 80 percent tax rate for crypto."

Why this is important: Rumors that the Federal Regulators were discussing targeting cryptocurrencies sent the crypto market spiraling down last week. While the market has since righted itself -- Ethereum just surpassed the market cap of Bank of America yesterday for example -- many believe this is a sign of what is to come. According to this article, strict federal regulations on the largely regulation-free crypto market could cause it to crash and the losses would be similar to what we saw with the .com bubble in

the 1990s. There is evidence to support this claim. Bitcoin dropped from an all-time high of \$64,000 to approximately \$47,700 when Treasury Secretary Janet Yellen was rumored to be targeting cryptocurrency. While some government agencies like the SEC and IRS are showing signs that they intend to be more involved in the crypto market, it is uncertain how they intend to regulate it. **It is becoming clearer that the strictness or leniency of those regulations could have a big effect on the future of cryptocurrency.** --- [Kellen M. Shearin](#)

Time hasn't Stalled Regulators' Resolve on Ripple, Robinhood Cases

"Federal and state securities agencies press on with new filings against the blockchain payments company and the day-trading app."

Why this is important: The Securities and Exchange Commission has proceeded with its lawsuit against Ripple under the new SEC Chairman, Gary Gensler. The SEC alleges that Ripple, its CEO, and its co-founder have violated investor-protection laws by selling XRP, a digital cryptocurrency that the SEC considers an unregulated security. Ripple has responded that XRP is a medium of exchange, and accuses the SEC of picking "virtual currency winners and losers," which has caused a ripple effect causing the value of XRP to decrease. Likewise, securities regulators in Massachusetts have proceeded in an administrative action against Robinhood Financial LLC to revoke its registration as a broker-dealer. The regulators allege that Robinhood has breached its fiduciary duties by manipulating customers through the use of gamification strategies to attract inexperienced investors. Robinhood has filed its own complaint in court alleging that the Massachusetts fiduciary rule requiring broker-dealers to act in their clients' best interest is invalid under Massachusetts law. **The lawsuits against Ripple and Robinhood are expected to provide guidance on how cryptocurrency developers can launch digital currencies without triggering securities laws and what duties day-trading apps owe to its customers.** --- [Victoria L. Creta](#)

Citi Invests in Mortgage Tech in Push to Close Racial Wealth Gap

"The push to digital comes as Citigroup said the rate of applications and originations it processed for Black and Hispanic consumers dropped last year, even as it increased for Asian homeowners."

Why this is important: Although there has long been a wealth gap in this country between Black and White Americans, that gap has widened amidst the global pandemic. One of the biggest casualties in the mortgage industry to arise from the pandemic has been the steep decline in Black homeownership, which, according to this article, is at its lowest level in six decades. Because access to credit builds wealth, improving access to home ownership for Black and Hispanic consumers is seen as a key factor in reducing the racial wealth gap. Citigroup now is attempting to close that racial wealth gap by announcing a three-year, \$1 billion initiative, which includes a \$550 million pledge to support homeownership for people of color. **If Citigroup's plan works, and Black and Hispanic consumers view the digital mortgage experience as a safer, fairer way to achieve home ownership, more companies may invest in digital platforms, which may lead to higher rates of homeownership in minority communities and a step in the right direction for people of color to achieve wealth.** --- [Tai Shadrick Kluemper](#)

Featured Spilman Attorney Profile



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Alex Macia is a Member in our Charleston, West Virginia office. His primary areas of practice are general litigation, administrative and government relations law, and mine safety. Alex has a wide range of experience including maintaining extensive trial practice before federal and state courts in commercial disputes; representing numerous business clients in federal and state governmental relations matters; and drafting and promoting legislation and administrative rules before the West Virginia Legislature and Executive Branch in areas of financial, health care, mining and other industries.

Previously, Alex was the Chief of Staff and General Counsel to the Office of Governor Bob Wise.

He was nominated by his peers for inclusion in The Best Lawyers in America in the areas of Energy Regulatory Law and Government Relations. And, Alex was named the 2019 "Lawyer of the Year" by Best Lawyers® in the area of Government Relations.

Alex is the Past President of the West Virginia Bar Association and a member of the Hispanic National Bar Association. He graduated from West Virginia University, *summa cum laude*, and received his J.D. with honors from George Washington University. Alex is admitted to the West Virginia State Bar, United States District Courts for the Southern and Northern Districts of West Virginia, United States District Courts for the Southern and Eastern Districts of New York, and the Supreme Court of Appeals of West Virginia.



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