



## News

### Client Success: Midland Funding Secures Dismissal of Putative FDCPA Class Action by Highlighting Bad Faith Bankruptcy Conduct by Plaintiff

September 10, 2019

Hinshaw client Midland Funding, LLC recently secured the dismissal of a putative Fair Debt Collection Practices Act (FDCPA) class action in the U.S. District Court of New Jersey. The dismissal was notable for the court's application of judicial estoppel, an "extraordinary" remedy reserved for "the most egregious" cases. Hinshaw attorneys Ellen Silverman and Matthew Corwin represented Midland in the case.

Plaintiff had filed multiple FDCPA cases including one against Midland. Midland sought dismissal of the case brought against it by requesting application of judicial estoppel, due to bad faith by the plaintiff in a separate bankruptcy proceeding. Midland argued that plaintiff had failed to fully disclose to the Bankruptcy Court or Trustee that he had initiated a number of FDCPA claims after filing his bankruptcy petition.

The District Court agreed, noting that "the Court cannot ignore the perversity of [plaintiff] discharging debt he owed to certain creditors while he was pursuing FDCPA claims against the same creditors for their attempts to collect the debt he owed." Granting Midland's motion, the Court dismissed the plaintiff's claims against Midland with prejudice.

The decision was discussed in an *insideARM* story titled "[Plaintiff Acted in Bad Faith by Not Disclosing All FDCPA Claims to Bankruptcy Court, Says D.N.J.](#)"

The case is *Vedernikov v. Atl. Credit & Fin., Inc.*, No. 18-15273 (D.N.J. Aug. 30, 2019)

#### Service Areas

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Defense

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