



News

David Schultz Analyzes in ARM Compliance Digest: Defendant in FDCPA Barcode Case Files En Banc Petition With Appeals Court

August 2, 2021

In the August 2, 2021 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz reviews a petition seeking an en banc rehearing – in light of the Supreme Court's ruling in *TransUnion v. Ramirez* – of the Third Circuit's reversal of a lower court's dismissal of an FDCPA case over the inclusion of a barcode containing a collection letter:

The ARM Industry now has two important en banc petitions pending in Federal Courts of Appeals. We all know about *Hunstein* and are anxious to hear what the 11th Circuit does with that petition. There now is an petition in a similar case, *Morales v Healthcare Revenue Recovery Group, Inc.* filed in the Third Circuit. Morales deals with whether a barcode that was on an envelope violated the FDCPA. This theory is somewhat unique to the courts within the Third Circuit (New Jersey, Pennsylvania, Delaware and the Virgin Islands) and has its roots in the infamous *Douglas* case. Both en banc petitions cite to the recently issued Supreme Court case of *Ramirez v Transunion*, and argue that the plaintiffs lack sufficient injury in fact to satisfy Article III of the U.S. Constitution.

It is extremely rare for Courts of Appeals to grant an en banc review and decide to have the full court (as opposed to just a three judge panel) rehear the case. It certainly helps that the rulings seem to conflict with the recent Supreme Court precedent. We hope that this fall the 3rd and 11th Circuit Courts of Appeals bring good news to the industry.

[Read the full August 2, 2021 edition of the AccountsRecovery.net Compliance Digest.](#)

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