



News

David Schultz Analyzes in ARM Compliance Digest: Judge Denies Competing Motions in FDCPA Case Over Debt Incurred During Political Campaign

September 13, 2021

In the September 13, 2021 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz discusses a case in California that is attempting to test the limits of what defines a consumer debt, at least as far as the Fair Debt Collection Practices Act is concerned:

Kershner v Hillcrest is odd on a number of levels. First, the facts are unique. The plaintiff was running for local office and hired a printer for some campaign related materials. He did not pay due to a mix-up with the printer. He subsequently sued the collector for not complying with the FDCPA. I am not familiar with many/any FDCPA cases arising out of political activity (unlike the TCPA, which has many cases rooted in political activity).

Second, the holding is odd. The court said there was a genuine dispute of material fact on whether there was a consumer debt. The judge said this even though the parties filed cross-motions for summary judgment and did not seem to argue on what were the facts. Each side applied those facts and the law and simply came to a different position, not surprisingly.

Third, rather than a judge deciding this issue, there will be a trial. The judge wants the jury to consider the facts and decide whether there was a consumer debt, which also does not happen too often. We'll have to keep a look out on whether this goes to trial and how it is decided.

[Read the full September 13, 2021 edition of the AccountsRecovery.net Compliance Digest.](#)

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