



News

David Schultz Analyzes in ARM Compliance Digest: Judge Denies Certification, Defendants' Motion for Summary Judgment in FDCPA Class Action

February 13, 2023

In the February 13, 2023 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz discussed a Washington District Court judge's decision to deny a plaintiff's motion to certify a class while also denying motions for summary judgment from several defendants in a Fair Debt Collection Practices Act (FDCPA) case:

There is a lot to unpack in the 36-page ruling in *Hoffman v Transworld*. The part I liked the most—and I suspect Transworld did as well—is the ruling that denies class certification. Plaintiff's theory basically was that the defendant filed collection lawsuits without the ability to prove them up and used false information. The plaintiff did not use "fail safe" class definitions, but the analysis was similar to what courts do in that situation. The court analyzed the nature of the claims and determined they could not be resolved on a class basis. There were two quotes that go to the heart of the analysis, and likely have application in many other putative class actions we face: (1) "Individual inquiry is required to determine whether TSI or the NCSLTs can present sufficient documentation to support ownership of each class member's loan" and (2) "Similarly, whether the affidavits and declarations of TSI employees are false, deceptive, and/or misleading requires inquiry concerning the individual affiants." Good stuff.

The court had less favorable things to say on the defendant's summary judgment but that only related to the individual claims. The overwhelming part of the case was knocked out. Hopefully, we can use this case and those quotes in other consumer cases.

"Judge Denies Certification, Defendants' MSJ in FDCPA Class Action," *ARM Compliance Digest*, February 13, 2023.

[Read the full February 13, 2023 edition of the AccountsRecovery.net Compliance Digest.](#)

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