



News

Justin Penn Analyzes in ARM Compliance Digest: Judge Dismisses FDCPA Claims in Long-Running Student Loan Case

October 8, 2024

In the October 7, 2024, issue of the *ARM Compliance Digest*, Hinshaw partner Justin Penn discussed a recent Washington District Court motion to dismiss a ruling involving a Fair Debt Collection Practices Act (FDCPA) lawsuit brought by a plaintiff who had previously declared bankruptcy and listed the defendants as creditors.

Penn highlighted two key points: not every failed collection effort warrants an FDCPA claim, and plaintiffs cannot contradict positions that benefited them in bankruptcy court. This ruling is seen as beneficial for those defending against FDCPA litigation related to collection lawsuits.

Penn writes:

Too often, the ARM industry finds itself defending federal litigation that arises out of unsuccessful state court collection lawsuits, and this case is helpful in at least two ways. First, it supports the notion that not all failed collection litigation should result in an FDCPA claim.

Second, the court rejected the consumers' shape-shifting positions from the bankruptcy court to the district court, correctly holding they were precluded from taking positions contrary to those from which they previously benefitted. These concepts should be kept in mind when defending FDCPA litigation arising out of underlying collection lawsuits.

Read the full October 7, 2024 edition of the *AccountsRecovery.net Compliance Digest*.

- "Judge Dismisses FDCPA Claims in Long-Running Student Loan Case" was published by *ARM Compliance Digest* on October 7, 2024.

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Service Areas

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