



## News

### David Schultz Analyzes in ARM Compliance Digest: Judge Grants MTD in FDCPA Case Over Email-Only Communication Demand

January 27, 2025

In the January 27, 2025, issue of the *ARM Compliance Digest*, Hinshaw partner David Schultz wrote a column discussing a notable decision by a federal district court in Illinois.

The court dismissed claims against a defendant who sent a letter to an individual that indicated email was their only convenient method of communication. The court ruled that the plaintiff's claims, including invasion of privacy and emotional distress, did not meet the concrete injury requirement for federal jurisdiction under Article III. Schultz notes how this case highlights a trend of similar court rulings involving standing and claim validity.

Schultz writes:

At about the time the *Hunstein* claims were no longer regularly filed, another trendy claim popped up: lawsuits for inconvenient means of communication. The facts in *Kirkman v Blitt* are typical of this trend. Plaintiff sent a letter to [Blitt] and claimed that the only convenient means of communication was via email, in part because of her school and work schedule. Blitt subsequently sent a letter and the lawsuit was filed.

The cases have been filed in federal courts but the judges often dismiss them because there is no "injury" sufficient for federal court jurisdiction pursuant to Article III. Kirkman tried to overcome this hurdle with some creative contentions. She alleged as injuries from the receipt of the letter: (1) invasion of privacy, (2) intrusion upon seclusion, (3) personal embarrassment, (4) loss of productive time, (5) emotional distress, (6) frustration, (7) anger, and (8) humiliation. She argued she had "stress and anxiety." She even argued that a consequence of the letter was insomnia and reduced academic performance. The court was not buying it. In a fairly tight ruling, the court held that each claim of injury was insufficient under Article III. It cited numerous other cases that rejected these types of claims.

This is a lawyer driven claim. We'll see if it gets much traction. Currently, we are seeing them filed more often in state courts. The judges there also are grappling with the standing issue. Hopefully, the state judges also shut them down.

#### Attorneys

David M. Schultz

#### Service Areas

Consumer and Class Action  
Defense

Consumer Financial Services



Read the full January 27, 2025 edition of the *AccountsRecovery.net Compliance Digest*.

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