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News

Hinshaw Partners David Schultz and Justin Penn Analyze Significant Debt Collection and Credit Reporting Rulings

May 21, 2025

Hinshaw partners David Schultz and Justin Penn were both featured in the May 19, 2025, edition of *AccountsRecovery.net's ARM Compliance Digest*, in which they provided separate columns reviewing recent, impactful court decisions affecting the debt collection and credit reporting industries. Read their full analysis below.

South Carolina Supreme Court Drops Review of Right-to-Cure Lawsuit

David's column examined the South Carolina Supreme Court's decision to pause its review of a case concerning whether debt collectors are required to send a right-to-cure notice before initiating a lawsuit, marking a rare "dismissed as improvidently granted" (DIG) outcome. He highlighted the importance of clarity in right-to-cure statutes for debt buyers and proposes that additional appellate review or legislative action may be needed to resolve the issue.

David writes:

> Dismissed as improvidently granted – a DIG. It is a supreme court term when *certiorari* is granted but the court later determines that it should not issue a decision. It does not happen very often. I was involved in a case where it once happened. It is a huge let down for the litigants.
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> It happened in *PRA v Campney*. The South Carolina Supreme Court agreed to decide the case, including application of the state right-to-cure statute to a debt buyer. It was briefed and argued but the Court remanded it for further proceedings. The application of a right-to-cure state law is an important issue. Earlier this year the Court of Appeals of Wisconsin adversely decided it in *Bank of America, N.A. v Riffard.*
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> The industry could use a win on the issue. Perhaps *Campney* will wind back through the appellate process after the trial court hears the matter further and enters a final order. Alternatively, the debt buying industry may want to look into lobbying efforts to clarify these laws. It is doubtful the intent was to apply them to debt buyers.

Attorneys

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Appeals Court Reverses Ruling in FCRA, RFDCPA Case

In his column, Justin analyzed a recent Ninth Circuit Court of Appeals decision that reversed a lower court's ruling in a Fair Credit Reporting Act (FCRA) and Rosenthal Fair Debt Collection Practices Act (RFDCPA) case. He emphasized the complexities involved in furnishing information to credit bureaus, particularly when data is "technically correct" but could still be "materially misleading." Justin underscored the critical importance of documenting consumer disputes to minimize legal risks, even when all reported information seems accurate.

Justin writes:

> This opinion is as short as it is confounding when it comes to analyzing the interplay between furnishing "technically correct" information that is nonetheless still "materially misleading." Indeed, for most unfamiliar with this area of the law, it is enough to make heads explode. But in the credit furnishing world generally, and the Ninth Circuit in particular, information can be both technically correct and materially misleading.
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> The overall takeaway from this case is that if you are furnishing information to the bureaus, it is critically important to note when you receive a dispute, even everything else reported is correct. In that way, you will minimize the risk underscored here of materially misleading whether the debt is in fact disputed even when everything you furnished was technically accurate.

Read the full May 19, 2025, edition of the *AccountsRecovery.net Compliance Digest.*