

David Schultz Analyzes in ARM Compliance Digest: Pair of NDIL Hunstein Cases Remanded Back to State Court for Lack of Standing

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Sep 19, 2022

In the September 19, 2022 edition of the *ARM Compliance Digest*, Hinshaw partner David Schultz discusses how a pair of recently issued rulings from the Northern District of Illinois illustrate that the fight over the use of letter vendors to print and mail collection letters is not over — it's just being relocated to state court:

These two cases from the Northern District of Illinois repeat what many other district courts and the majority of the 11th Circuit have held: the “*Hunstein*” theory does not rise to the level of injury Article III requires. If the plaintiff’s bar prosecutes the theory further, it will likely be in state courts unless another Circuit Court of Appeals holds differently than the 11th Circuit.

We will see if the theory continues to be litigated. If so, I am fine defending them in state courts. There is a strong argument that Supreme Court in *Transunion* rejected the theory. The *Hunstein* concurrence explained that “[w]hen the Supreme Court rejected the mail-vendor argument for Article III standing as unpreserved, it also alternatively rejected it as ‘unavailing.’” *TransUnion*, 141 S. Ct. at 2210 n.6. We are bound by that alternative rationale. See *Bravo*, 532 F.3d at 1162.

Thus, in state court, we can point to the fact that federal courts have regularly held that the theory does not rise to the level of an “injury.” I think a state court will be influenced by that when making a merits ruling. We also can cite to the Supreme Court *Transunion* opinion and the *Hunstein* concurrence to argue the theory should be rejected. There is further support to reject the theory. In sum, the defense has a lot of ammunition to take on the letter vendor theory.

[Read the full September 19, 2022 edition of the AccountsRecovery.net Compliance Digest.](#)

“Pair of NDIL Hunstein Cases Remanded Back to State Court for Lack of Standing,” *ARM Compliance Digest*, September 19, 2022

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David M. Schultz

Partner

📞 312-704-3527

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