

Attys Say 11th Circ. FDCPA Ruling Could Harm Their Practices, Law 360, quoted Rick Perr, 1-25-22

Nineteen state creditor bar associations urged the Eleventh Circuit Tuesday to reverse its decision reviving a debtor's claim that a debt collector violated federal privacy laws by transmitting his personal information to a third-party mail vendor, saying such an interpretation would "functionally grind collection litigation to a halt."

The Atlanta-based appeals court is set to hold an en banc rehearing before its full bench on Feb. 22 in debtor Richard Hunstein's appeal to reverse a lower court's dismissal of his claims that defendant Preferred Collection and Management Services Inc.'s use of a mail vendor to write, print and send requests for medical debt repayment violated his privacy rights under the Fair Debt Collection Practices Act. The "friend of the court" brief from the creditor bar associations, which span the country from California to New Jersey and collectively represent more than 715 law firms, was one of five the court allowed to be filed Tuesday in support of Preferred Collection.

"The briefs filed today by amici encapsulate the dangerous consequences that could befall the economy if the decision of the trial court is not upheld by the court of appeals," Preferred Collection counsel Richard J. Perr told Law360. "Literalism cannot replace textualism in statutory construction, and, as particularly noted by the state creditors bar associations, if reversed, would wreak havoc on the economic process."

Under Section 1692c(b) of the FDCPA, debt collectors are prohibited from communicating information in connection with collection efforts to parties other than the relevant debtors, creditors, their respective attorneys and credit reporting agencies without permission of the debtor or a court. Please read full article at link below.