

En Banc Panel For 11th Circuit Dismisses Hunstein Against Tampa Collection Agency For Lack of Article III Standing

The 11th Circuit issued its ruling in the case, [Hunstein v. Preferred Collection and Management Services Inc.](#), a 35-year Tampa-based collections agency.

TAMPA, FLORIDA, USA, September 12, 2022 /EINPresswire.com/ -- On September 8th, 2022, the 11th Circuit finally issued its ruling in the case, [Hunstein v. Preferred Collection and Management Services Inc.](#), a 35-year [Tampa collection agency](#). The panel vacated the district court's order that the plaintiff in the case had standing under Article III. In the majority court's opinion, they wrote:



Preferred Group of Tampa Logo

“The Supreme Court has since ratified our approach. In *TransUnion*, the Court reiterated that harm from a statutory violation had to be “real” in order to be concrete, and that one way to tell if a harm is real is to compare it to a harm redressed in a traditional common-law tort. The Court also used the same approach that we did—comparing the elements—to determine whether the harm caused by a new statutory violation was similar to the one invoked by an old tort claim. When viewed as a way to evaluate whether actual harm occurred, this approach makes sense—if the elements do not match up, how could the harm that results from those elements?”

The case, spanning more than 18 months, paved the way for thousands of other copycat cases across the nation against [collection agencies in Tampa](#) and across the US that use a mailing vendor and automate the sending of letters. The case has now been dismissed without prejudice.

Preferred worked with ACA International and various other stakeholders to defend this case due to the potential consequences across the ARM industry. “ACA International is appreciative of the

Board of Directors' leadership and support for use of the Industry Advancement Fund to support ACA's member to fight this case and for all involved for ultimately securing a sound ruling for the accounts receivable management industry," said ACA CEO Scott Purcell.

Preferred, defended by Robert Vigh, Solomon, Vigh & Springer, P.A., was initially sued in the United States District Court for the Middle District of Florida. The district court granted Preferred Collection's motion to dismiss, finding no violation because the communication to the mail vendor was not "in connection with the collection of any debt" as required for liability under the Act. Hunstein appealed to the 11th Circuit.

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David Kelley

original opinion in Hunstein issued a new panel opinion in response to Preferred's petition affirming their initial decision but then the full court voted to take the case en banc and rehear the matter in February.

David Kelley, President and CEO, of Preferred had this to say about the ruling, “We are very grateful for the decision of the 11th Circuit Court of Appeals and we believe it to be right and just. We are also so very grateful for all those who stood behind us and beside us and shouldered a load we could not bear on our own. The leadership at ACA International has been an incredible blessing to us in their guidance, resources, and planning, all of which allowed us to



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Preferred then added attorney Rick Perr, Kaufman Dolowich Voluck LLP, to its defense team with the assistance and support of ACA International. On April 21, 2021, a 3-judge panel of the 11th Circuit reversed—but not before requesting a supplemental briefing on standing. *Hunstein v. Preferred Collection & Mgmt. Servs., Inc.*, 994 F.3d 1341, 1344–45 (11th Cir. 2021). Various Amicus Briefs were submitted after Preferred filed its petition to ask the court to grant a panel rehearing by the full court. Shay Dvoretzky, a partner with Skadden, Arps, Slate, Meagher & Flom LLP, joined Preferred's defense. In October 2021, a panel of judges from the 11th Circuit that issued the

present a defense that protected our industry and numerous other industries from what we believed to be unjust legal action that was taken against us. Our legal counsel, Shay Dvoretzky who represented us before the 11th Circuit, and Richard J Perr and Robert Vigh, who represented us before our presence in the 11th Circuit, ALL did outstanding jobs of passionately and professionally representing truth. We hope now we can fully return to focusing on serving our incredible clients and their patients”.

It is unknown at this time if the Plaintiff will ask the Supreme Court to review this case. For now, it seems any similar claims will need to be brought to state courts.

For more information regarding Preferred Group of Tampa and Preferred Collection and Management Services Inc., please visit www.preferredgroupoftampa.com or call (800) 741-0802. In addition, one can visit the Preferred Group of Tampa new location at 8875 Hidden River Parkway, Suite 100, Tampa, FL 33637.

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Preferred Group of Tampa Team



Tampa Collection Agency



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