

# The Evolving Legal Landscape in Light of Hunstein

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# Today's Panel



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# WELCOME AND INTRODUCTION

Jason Klotch

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# Timing and Possible Procedural Next Steps in Hunstein – Could Take Years...

- One or both parties can submit a petition for rehearing
- Third parties can seek leave to submit amicus petitions
- The case returns to the District Court and Preferred will answer the Complaint, pretrial discovery will occur, and perhaps the case will go to trial on the merits
  - We'd expect the Johns Hopkins Notice of Privacy Practices to come into evidence which shows that information may be used/disclosed to business associates for payment purposes
  - We'd expect the registration paperwork for the medical visits to come into evidence which shows a consent to information being shared with business associates, health plans, and others in efforts to seek payment or reimbursement for care
  - We'd not expect Richard Hunstein to prevail on his theory that the sharing of information with a mail vendor was "unauthorized" and the case will come to a close
- Other "Me Too" plaintiffs attorneys may attempt this theory in large class actions against large debt collectors

CLARK HILL

# Options to consider.

Review all **contracts with vendors** with these objectives:

- Evaluate data use and disclosure provisions.
- Remind vendors that their rights to use/disclose any consumer data is restricted to your (creditor's) purposes and resolution of outstanding account(s) with creditor
- Survey your vendors to verify they have passed along all data use and disclosure provisions to their subvendors and know of no circumstances where such provisions have been violated
- Verify "notice" provisions in regard to significant pre-litigation claims or actual litigation related or similar to the Hunstein issues

Review language in **consumer facing agreements** to assure consumers are "consenting" to you sharing their information with vendors who are essential to the conduct of your business

Evaluate accounting practices in regard to when consumers' accounts are classified as "in default" and determine whether or not more support in a first party strategy is logical versus bad debt.

**Might *Hunstein*  
pressure  
creditors to  
place accounts  
before charge off  
to avoid  
*Hunstein*?**





## **Q&A AND WRAP-UP**





**THANK YOU FOR ATTENDING!**