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Volume 3, Issue 6

Welcome!

Welcome to the sixth issue of *All Consuming* for 2022.

We are very pleased to announce that 13 of the firm's West Virginia-based lawyers were recognized by Super Lawyers for the West Virginia List 2022.

The objective of the Super Lawyers selection process is to create a credible, comprehensive and diverse listing of outstanding attorneys from more than 70 practice areas. The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates, and peer reviews by practice area. No more than 5 percent of a state's lawyers are named to the Super Lawyers list. You can see the list of lawyers here.

Congratulations to these attorneys and the firm!

Thanks for reading.

Angela L. Beblo, Co-editor of *All Consuming*

Nicholas P. Mooney II, Co-editor of *All Consuming*

Bruce M. Jacobs, Chair, Spilman Consumer Finance Litigation Practice Group

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Student Loans

Student Loan Forgiveness is Completely Unfair to These People

"If President Joe Biden proceeds with wide-scale student loan cancellation, the most likely beneficiaries could include federal student loan borrowers who earn up to $150,000 annually."

Why this is important: In the ongoing debate about student loan debt, and President Biden's campaign promise to address the issue of mounting student loan debt through forgiveness, not everyone is on board with the idea of cancelling student loans – even the cancellation of a small amount of student loan debt. As one article recently pointed out, loan forgiveness as it is currently being discussed is unfair to at least seven types of people: (1) those without student loan debt, (2) those who did not attend college, (3) those who paid off their loans already, (4) those who chose community college, (5) those with private student loan debt, (6) those with a significant amount of student loan debt, and (7) future borrowers of student loans. **What the article highlights is that no one solution will address all of the different constituencies nor will a single solution address the myriad nuances of situations for different student loan borrowers. Until an announcement is made, the debate around student loan forgiveness is likely to produce varying ideas and reactions.** --- Angela L. Beblo

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Education Department to Reform Student Loan Servicing System

"The plan, called the Unified Servicing and Data Solution, aims to simplify access to student loan servicers and increase transparency between FSA, borrowers and loan servicers, which have long been issues that complicate the student loan servicing process."

Why this is important: For several years, the Office of Federal Student Aid ("FSA") has attempted to unify and streamline information about federal student loans. Many users are likely aware of the National Student Loan Data System ("NSLDS") and its sometimes cumbersome/non-intuitive pages. Recently, FSA announced a plan to simplify access, transparency, and information under a Unified Servicing and Data Solution ("USDS") system. "USDS aims to simplify this process by streamlining access to all student loan servicers with federal contracts through the FSA-managed StudentAid.gov." If all goes well, implementation of the USDS will occur as part of the new servicing contracts with student loan servicers, which expire in December 2023. **Servicers should be aware of these upcoming changes and pay close attention to FSA's attempts to uncomplicate student loan servicing.** --- Angela L. Beblo

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Most Student-Loan Borrowers Made No Payment During US Freeze

"Data from the Federal Reserve show that 60% of borrowers who qualified for forbearance didn't make a single payment from August 2020 through December 2021."

Why this is important: In previous columns, readers were provided information about the number of student loan accounts and borrowers impacted by the payment freeze as well as the various extensions of the pause in payments. Once again, however, payments are set to begin soon. As the new deadline nears, a recent article in the *Lincoln Star Journal* investigated payments made during the pause and found something startling: a "majority of borrowers who together hold about $400 billion in federal student debt made no payment on their loans in the pandemic era, taking full advantage of a freeze put in place at the onset of the COVID-19 crisis." According to the article, roughly 60 percent of borrowers did not make a single payment during the pause. As delinquent rates on credit cards and mortgages increase, the article questions whether those borrowers that have not made payments will be able to once the pause is lifted. Potential borrower requests for assistance may be compounded by layoffs at student loan servicers, according to the article. **Only time will tell if those not making payments can afford their student loan payments once the pause ceases or if another type of financial crisis is looming.** --- Angela L. Beblo

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Debt Collection

"It Needs Oversight": South Carolina Law Allows Hospitals to Garnish Paychecks and Tax Refunds to Collect Medical Debt

"The findings of the WBTV investigation raise more questions about whether healthcare facilities are complying with state law to notify patients of garnishments and their right to protest and whether more oversight is needed for the program."

Why this is important: South Carolina has two programs, Setoff and GEAR, which allow hospitals and government agencies to garnish money from residents with proper notification. An investigation conducted by WBTV revealed, however, that hospitals may be taking advantage of these programs to collect money where none is owed, and are failing to provide patients with notice of their right to protest the garnishment. This was the case for a patient of Atrium Health, Jim Mayhugh. After paying his unpaid bill from Atrium, Mr. Mayhugh received a letter from Atrium warning him that his tax refund might be garnished. Once Mr. Mayhugh received a letter from the State of South Carolina informing him that his refund was sent directly to Atrium, he requested WBTV to investigate the hospital's collection mechanisms. Mr. Mayhugh eventually received a refund, but his story highlights the lack of oversight the South Carolina Department of Revenue has over the Setoff and GEAR programs. **As of right now, the oversight is limited to what is set forth in state law. If more patients come forward with garnishment stories similar to Mr. Mayhugh, the South Carolina General Assembly may be called to act.** --- Victoria L. Creta

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Payment Systems

Merchants Forced to Adapt as eCommerce Moves to Mobile

"Consumers are spending more time shopping on digital devices — none more than the ubiquitous mobile device, leading to the coinage of a new term: mCommerce."

Why this is important: Regular readers of *All Consuming* will remember that we previously have reported on the importance of mobile payments and secure electronic transactions. Millennials, who grew up in a digital-first world, have been leading the charge to make those payments and transactions a larger segment of commerce. The COVID-19 pandemic forced everyone, regardless of their generation, to get on board. VISA's Back to Business Surveys in recent years reported on the trend of mobile payments and electronic transactions taking larger market share and the willingness of consumers to jettison any thoughts of brand loyalty in favor of secure and clean ways to conduct commerce. The PAYMNTS.com article highlights the continuation of this trend, as it reports on consumers spending more time shopping on mobile devices. This behavior has given rise to a new term: mCommerce. While mobile payments and shopping are increasing, the experience isn't always seamless. The article reports that up to 90 percent of mobile shoppers report experiencing problems such as the failure of merchants' internet pages to display correctly on mobile devices. The message from this article is clear: the growing trends of mobile payments and eCommerce are here to stay and have given birth to mCommerce. **This applies to more than just merchants. Financial institutions should audit the digital experience they provide customers and ensure their webpages are formatted to display and operate correctly on mobile devices.** --- Nicholas P. Mooney II

39% of Consumers Pay Monthly Bills on Time with Automatic Payments

"The most common types of bills that consumers pay each month are mobile phone (72%), home internet (67%), insurance premiums (50%) and cable TV (47%)."

Why this is important: We reported above about the rise of mCommerce and the need for financial institutions to ensure they have a robust mobile experience for their customers. This article reports on another tool financial institutions may use to win and keep customer loyalty: bill payment systems. Consumers are becoming more comfortable with making monthly bill payments with digital and automatic payments. According to a recent survey, 74 percent of consumers making less than $50,000 per year use digital channels to pay mobile phone bills, and 40 percent use them to pay cable TV bills. This trend continues even among consumers earning more. Among consumers making more than $100,000 annually, 66 percent use digital channels to pay mobile phone and home internet bills, and 50 percent use them to pay cable TV bills. Of the various methods to digitally pay those bills, the survey showed that the largest percentage of consumers use their bank's bill payment system. **At bottom, as more consumers use digital channels to make monthly bill payments, financial institutions should consider how their bill payment services can be enhanced to attract and keep customers.** --- Nicholas P. Mooney II

Credit Reporting

Top Credit Bureaus to Relax Penalties for Medical Debt

"If the debts have been paid in full but are still on a credit report as a negative mark, the adverse notes will be removed."

Why this is important: According to this article, an estimated $88 billion in medical debt is on the credit reports of millions of Americans. Most of that medical debt is small -- less than $500, but the derogatory marks associated with that debt have a lasting effect. Namely, adverse marks on a credit report can stay with a consumer for seven years. Medical debt seems to affect Millennials the hardest, with 52 percent of Millennials in a recent survey reporting that medical debt harmed their credit scores. **Removing such derogatory notes from medical debts that have been paid in full, however, may aid these consumers in pursuing new forms of credit previously unavailable to them.** --- Tai Shadrick Kluemper

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U.S. House of Representatives and U.S. Senate Committee Meetings

We have included a listing of pertinent U.S. House and Senate Committee meetings for your reference.

These are events scheduled at press time for the month of June 2022.

U.S. House Committee on Financial Services

- June 14: Hybrid Markup of Various Measures
- June 22: Better, Together: Examining the Unified Proposed Rule to Modernize the Community Reinvestment Act
- June 23: Monetary Policy and the State of the Economy
- June 28: Virtual Hearing - Where Have All the Houses Gone? Private Equity, Single Family Rentals, and America's Neighborhoods
- June 29: Virtual Hearing - Boom and Bust: Inequality, Homeownership, and the Long-Term Impacts of the Hot Housing Market
- June 30: Virtual Hearing - Combatting Tech Bro Culture: Understanding Obstacles to Investments in Diverse-Owned Fintechs

U.S. House Committee on Small Business

- No June events scheduled at this time

U.S. Senate Committee on Banking, Housing, and Urban Affairs

- June 8: Executive Session

U.S. Senate Committee on Finance

- June 14: Examining the Impact of South Dakota v. Wayfair on Small Businesses and Remote Sales

U.S. Senate Committee on Small Business & Entrepreneurship

- June 8: The Small Business Workforce Challenge: Causes, Impacts and Solutions

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