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Analysis:

Supreme Court Takes Article III Standing Case; TCPA, FCRA, and FDCPA Statutory Damages Provisions Hang in the Balance

Statutes such as the Telephone Consumer Protection Act (TCPA), Fair Debt Collection Practices Act (FDCPA), and Fair Credit Reporting Act (FCRA) have long been favorites for class action lawyers, write Venable attorneys **Daniel S. Blynn** and **Mark S. Goodrich** in a recent post to the firm's advertising law blog. Plaintiffs' attorneys, they write, leverage significant statutory damages to generate large judgments or settlements for persons who often experience nothing more than the inconvenience of receiving an unwanted call or text.

Spokeo, Inc. v. Robins was filed in the United States District Court for the Central District of California under the FCRA, and alleged that a credit reporting agency published inaccurate information about the plaintiff that potentially could affect his creditworthiness. The district court dismissed the complaint, ruling that the plaintiff failed to allege an injury or actual harm. However, the U.S. Court of Appeals for the Ninth Circuit reversed the ruling and contributed to a split between the circuit courts on the Article III question. Now, Blynn and Goodrich write, the Supreme Court is poised to address the important standing issue once and for all in a case that could have significant implications for class action litigation.

Click here to read the full text of the blog post and [learn more about Article III standing and the implications of the case.](#)

Craft Beer Lawsuit Bottles Plaintiff's Rage at Miller/Coors

From artisanal cheeses to Etsy's IPO, "hand-crafted" goods are undeniably hot right now. So it should be no surprise that marketers are attempting to leverage the trend to drive sales, write Venable partners **Angel A. Garganta** and **Randal M. Shaheen** in a recent post to the firm's advertising law blog. It should also be no surprise, they write, that class action plaintiffs' attorneys are hot on their heels, especially when it comes to "crafty" claims in alcohol advertising.

In a recent case in San Diego, a man has sued Miller/Coors claiming that it deceptively markets its Blue Moon beer as a "craft" beer, and allegedly went to great lengths to hide its connection with the brand. The complaint alleges that the product is priced comparably to higher priced small batch craft beers (almost 50% higher than mass produced beers) and is placed on shelves with craft beers. In addition, the complaint alleges that Miller/Coors intentionally omits the Miller/Coors name from the product label and advertising as well as on the Blue Moon Brewing Company website. These facts, the complaint alleges, demonstrate that Miller/Coors has sought to mislead consumers into believing that Blue Moon is a microbatch craft beer rather than a macrobatch product.

The case may not survive a motion to dismiss, the authors write, but given the growing prevalence of D/B/As any court ruling in this case is definitely worth watching.

Click here to read the full text of the blog post and [learn about other recent "handmade" lawsuits targeting alcohol and other industries.](#)

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FTC's Use of Unfairness Doctrine in "Revenge Porn" Unfair?

The Federal Trade Commission's (FTC) recent enforcement action against alleged revenge-pornster Craig Brittain hinged on a surprising, and possibly ominous, application of the FTC's unfairness authority, writes Venable partner [Gary D. Hailey](#) in a recent post to the firm's advertising law blog.

It's not clear what inspired the FTC to join the crusade against revenge porn, Hailey writes, but the closer you look at the FTC's case, the harder it is to understand – or defend – the agency's decision to go after Brittain. And although Hailey guesses that the case is an aberration, there is the possibility that the enforcement action against Brittain is a harbinger of future cases relying on an expansive reading of the FTC's unfairness authority – a reading that would seem to be inconsistent with previous Commission pronouncements about unfairness. If so, Hailey writes, that could be bad news for marketers generally.

Read the full blog post to [learn more about the application of the FTC's Unfairness Doctrine](#).

BBB Is Easy As 1-2-3

If you advertise in North America, you should be familiar with the Council of Better Business Bureau's (BBB) Code edition Advertising, writes Venable partner [Gregory J. Sater](#) in the latest Edition of *Electronic Retailer* magazine. And, if you have not read the Code in a while, he writes, now would be a good time for a refresher. That is because the BBB recently published several changes to the code to address many of the "new" methods advertisers use to reach consumers today, such as social media. The changes to the Code also address recent guidance issued by the FTC.

Understanding and complying with the Code is a must for marketers, Sater writes, because BBB complaints have a nasty habit of turning into FTC enforcement actions.

Read Sater's article to [learn more about the recent changes to the Code](#).

[Read the full text of the revised BBB Code here.](#)

Upcoming Event:

Internet Retailer Conference and Exhibition

June 2-5 | Chicago, IL

Join Venable at the Internet Retailer Conference and Exhibition, the world's largest event dedicated exclusively to e-commerce. With more than 200 industry-leading speakers and more than 600 companies in the e-commerce solutions industry exhibiting at the conference, IRCE is a must-attend for companies in the e-commerce market. Plan to visit Venable at **booth 358** during IRCE.

[Click here to learn more about Internet Retailer and register to attend.](#)

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