No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

_____

Med-1 Solutions, LLC,
Petitioner,
v.
Mark Suesz,
Respondent.

_____

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

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PETITION FOR WRIT OF CERTIORARI

_____

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QUESTION PRESENTED FOR REVIEW

Section 1692i of the Fair Debt Collection Practices Act requires debt collectors to file any litigation against consumer debtors in the "judicial district or similar legal entity" where the debtor resides or where the contract establishing the debt was signed. The question presented is,

Whether the term "judicial district" in section 1692i should be defined with respect to state law, by determining the smallest unit into which the state consistently and uniformly divides itself (as is the rule in the Second Circuit), or whether the term should be given a federal common law definition that asks what is the smallest geographic area relevant for state court venue (as held by the Seventh Circuit below).

RULE 29.6 STATEMENT

Med-1 Solutions has no parent company, and no publicly held company owns 10% or more of its stock.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Med-1 Solutions, LLC, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals on rehearing en banc is reported at 757 F.3d 636. The initial panel opinion of the court of appeals is reported at 734 F.3d 684. The entry on motion to dismiss by the district court is unreported but is available at 2013 WL 1183292.

JURISDICTION

The judgment of the Court of Appeals was entered on rehearing en banc on July 2, 2014. The jurisdiction of this Court rests on 28 U.S.C. § 1254(1).

FULL TEXT OF STATUTES

Section 1692i of the FDCPA (15 U.S.C. § 1692i) provides,

a) Venue

Any debt collector who brings any legal action on a debt against any consumer shall—

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

(A) in which such consumer signed the contract sued upon; or

(B) in which such consumer resides at the commencement of the action.

(b) Authorization of actions

> Nothing in this subchapter shall be construed to authorize the bringing of legal actions by debt collectors.

15 U.S.C. § 1692i.

STATEMENT OF THE CASE

The jurisdiction of the district court was invoked under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. and under 28 U.S.C. § 1331.

The State of Indiana has created ninety-one separate judicial circuits, all centered around a court of general jurisdiction called the Circuit Court. The State has created additional courts, some of general and some of limited jurisdiction, and there is a large amount of variation as to the structure of the individual county court systems. Included in that variation is the manner in which the various counties hear small claims matters.

In Marion County—the state's most populous county—Indiana has created nine township small claims courts, vested with extremely limited jurisdiction. The township small claims courts may only hear cases arising out of tort or contract disputes, and only where the amount in controversy does not exceed six thousand dollars. At the times pertinent to the present controversy, the geographic borders of the townships were not jurisdictional, and the township small claims courts had co-extensive jurisdiction, hearing cases arising anywhere within the county.

This arrangement was and is unique to Marion County.

Mark Suesz incurred a debt with Community North Hospital in Lawrence Township, within Marion County. He did not pay that debt, and the Hospital turned his account over to an outside collection agency, Med-1 Solutions, LLC (Med-1).

Med-1 filed a collection lawsuit against Suesz in the Pike Township small claims court, also located within Marion County, an act permitted by the State of Indiana's procedural rules. While Suesz did not reside in Marion County (he lived in an adjoining suburban county), he signed the contract establishing the debt at the hospital in Lawrence Township.

Suesz brought this action asserting that Med-1 violated § 1692i of the FDCPA when it filed the collection lawsuit in Pike Township, contending that the FDCPA required the action to be initiated in Lawrence Township.

The district court dismissed the complaint on Med-1's motion, brought pursuant to Federal Rule of Civil Procedure 12(b)(6), determining that the "judicial district" for FDCPA purposes was the Marion County Circuit Court and not the sub-county township courts. The district court thus concluded that filing suit anywhere within the county was permissible pursuant to § 1692i.

The Seventh Circuit affirmed in a divided 2-1 decision. Both the district court and the panel majority relied heavily upon existing circuit precedent defining a "judicial district" with a balancing approach that asked whether the court was a uniform and common division to the state, whether it possessed general original jurisdiction, and whether its territorial limits acted as a bar to adjudication.

On rehearing en banc, the Seventh Circuit reversed the district court and held that the individual Marion County townships are independent judicial districts for purposes of § 1692i. In so holding, the circuit court majority utilized a purposive interpretation of the FDCPA and defined the term "judicial district" as the smallest geographic unit relevant for venue. In so doing, it rejected its own prior definition and parted ways with the Second Circuit's definition of a "judicial district" under § 1692i.

REASONS FOR GRANTING THE WRIT

The present petition presents a straightforward question: whether the term "judicial district" in § 1692i should be defined by looking at state law and determining how the state uniformly divides itself into judicial districts or circuits, or whether the term simply means the smallest geographic unit that is relevant for venue, even where that unit is not considered a circuit or district by the state itself.

Stated another way, the issue is whether the term "judicial district" is defined by looking to the state's own judicial framework, or whether a federal definition should be imposed if such a definition is believed to advance the purposes of the act.

Here, the dispute centers around the courts in Marion County, Indiana, and asks whether the Marion County township small claims courts, which are unique to the state's most populous county and are vested with limited jurisdiction, are separate and distinct judicial districts such that a debtor must be sued in the individual township where she resides or signed the contract, or whether the judicial district is the county, as the smallest geographic unit common to the state that contains a court of general jurisdiction.

The Circuits are split on this issue as the Second Circuit has adopted a balancing approach in line with the district court in this case, and the Seventh Circuit has—with the underlying decision on rehearing—crafted a new definition.

This split is far from nominal, as the question at the heart of this dispute presents a significant federal question that should be decided by this Court. The Seventh Circuit's purposive approach to the FDCPA's venue provision has expansively re-defined the statute in a manner that interferes with the states' sovereign authority and will greatly restrict the states' freedom to craft jurisdictional and procedural rules for their own court systems. Statutes should be read with general principals of

federalism in mind, and where appropriate, read in a manner that preserves—rather than interferes with—the careful balance between state and federal functions. This important federal question requires the guidance of this Court.

For these reasons, this Court should grant certiorari.

"Congress enacted the FDCPA in 1977…to eliminate abusive debt collection practices, to ensure that debt collectors who abstain from abusive practices are not competitively disadvantaged, and to promote consistent state action to protect consumers. Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA, 559 U.S. 573 (2010) (citing 15 U.S.C. § 1692e). The FDCPA meets these goals both by requiring positive action by debt collectors, such as providing debtors with specific information to help them make informed decisions, 15 U.S.C. § 1692g, and negatively prohibiting other conduct, such as using profane language, 15 U.S.C. § 1692d, or impersonating public officials, 15 U.S.C. § 1692e.

Pertinent to the present petition, Section 1692i of the FDCPA prohibits debt collectors from filing suit in forums that are geographically inconvenient to the debtor. Specifically, the section provides, "Any debt collector who brings any legal action on a debt against any consumer shall… bring such action only in the judicial district or similar legal entity" in which the consumer signed the contract establishing the debt or resides. 15 U.S.C. § 1692i.

The Act does not define the term "judicial district."

The first circuit court to give the meaning of the term "judicial district" significant treatment was the Seventh Circuit in 1996. In Newsom v. Friedman, the Court defined the term with a three part balancing approach derived from Black's Law Dictionary. 76 F.3d 813, 817-18 (7th Cir. 1996) overruled by Suesz v. Med-1 Solutions, LLC, 757 F.3d 636 (7th Cir. 2014). Specifically, the Seventh Circuit held that a "judicial district" for purposes of the FDCPA's venue provision is,

> One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; or the district may include two or more counties, having separate and independent county courts, but in that case they are presided over by the same judge.

Id. at 817.

In applying this balancing definition, the Court found that the municipal department districts in Cook County, Illinois (Chicago) were not uniform to the state, did not have general original

jurisdiction, and did not define their limited jurisdiction by their territorial boundaries. Id. at 819. Accordingly, the Court held that the Cook County Circuit Court was the "judicial district," and determined that a debt collector need not file in the municipal department district of that court where the debtor resided or where the contract was signed. Id.

Fifteen years later, the Second Circuit adopted the same definition—citing favorably to both Newsom and the sources relied upon by Newsom in defining the term. Hess v. Cohen & Slamowitz LLP, 637 F.3d 117, 120-21 (2nd Circ. 2011); *see also* Suesz v. Med-1 Solutions, LLC, 757 F.3d 636, 658 (7th Cir. 2014) (Kanne, J., dissenting) ("Since [Newsom], the only other circuit court to directly consider the issue adopted the exact same definition.").[1]

These decisions apply § 1692i to limited-jurisdiction state courts by asking how the state courts function, by considering territorial jurisdictional restrictions imposed by the states

[1] The Fifth Circuit has taken a different approach. It has held simply that it is a violation of § 1692i to file suit against a debtor in a court that lacks jurisdiction over the debtor. Addison v. Braud, 105 F.3d 223, 224 (5th Cir. 1997). Similarly, the Ninth Circuit has found counties in Arizona constitute separate judicial districts, despite the fact that the state of Arizona has a unitary superior court. Fox v. Citicorp Credit Services, Inc., 15 F.3d 1507, 1515 (9th Cir. 1994). Neither court has spoken on the present issue, which is whether a subdivision of a county circuit court is a separate judicial district, even where it is not a common division to the state and even where its jurisdiction is county wide.

themselves, and ultimately, by asking whether the lawsuit was filed in the proper judicial district as defined by state law. Newsom, 76 F.3d at 819 ("Therefore the Municipal Department districts are neither defined as judicial districts, nor under the rules governing their operation do they function as judicial districts."); Hess, 637 F.3d at 123 ("Because the court system of which [the debt collector] availed itself is governed by laws that limit the territorial extent of those courts… we hold that those laws delimit the 'judicial district' by which compliance with the FDCPA's venue provisions must be measured.").

In the underlying litigation, both the district court and the panel majority applied the Newsom/Hess definition to the Marion County, Indiana township small claims courts and determined that the township small claims courts are not distinct and separate judicial districts.

On rehearing en banc, the Seventh Circuit reversed itself—and in so doing parted ways with the Second Circuit—holding that "judicial district" in § 1692i does not mean the judicial district as defined by state law, but rather, means the smallest geographic unit relevant for venue purposes.

This distinction is far from semantic and has serious and severe consequences for debtors and debt collectors far beyond the borders of Marion County. The purposive approach below significantly interferes with the states' sovereign authority to establish the jurisdictional and procedural rules

applicable to their courts. The state court approach that traces to Newsom interferes with that sovereignty in a much less restrictive manner. Further, the state court approach is purely content-neutral—and unlike the purposive approach, does not critique the competence of state courts to hear the cases within their jurisdiction.

These federalism concerns are best highlighted by an analysis of the Indiana court system. The Indiana Constitution permits the legislature to subdivide the state into judicial circuits, and the General Assembly has created 91 judicial circuits that, with only one exception, correspond with the ninety-two counties in the state.[2] Ind. Const. Art. 7 § 7; Ind. Code § 33-33-1-1, *et seq*. Each circuit court has original and concurrent jurisdiction in all civil and criminal cases. Ind. Code, § 33-28-1-2. Marion County constitutes the nineteenth judicial circuit. Ind. Code § 33-33-49-2.

Indiana has created several additional courts, and the structure of court systems vary significantly from county to county. *See* Ind. Code §§ 33-33-1-1, *et seq*. For example, most counties—but not all—have Superior Courts, some of which are "standard" Superior Courts, some of which are not. *See* Ind. Code §§ 33-29-1-1, *et seq*.; 33-33-1-1, *et seq*. A significantly smaller number of counties have city and town courts of limited jurisdiction. Ind. Code §§ 33-35-1-1, *et seq*. St. Joseph County has a separate

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[2] Ohio and Dearborn Counties are a "joint" judicial circuit. *See* Ind. Code § 33-33-58-2.

probate court, Ind. Code § 33-31-1-1, *et seq.*, while the other counties vest probate jurisdiction in either the Circuit or Superior court. And pertinent to the present analysis, Marion County and Marion County alone has township small claims courts. Ind. Code § 33-34-1-1, *et seq*.

At the time relevant to this dispute, the township small claims courts within Marion County had concurrent jurisdiction; their boundaries, while defined by geography, did not act as a bar to adjudication. Ind. Code § 33-34-1-1, et seq. Any litigant could file a small claims action (assuming the amount in controversy was less than $6,000 and involved either a contract or a tort claim) in any of the nine township small claims courts. Cases could also be freely transferred among the small claims dockets. The State of Indiana determined that, as long as suit was filed within the county or judicial circuit, there was no bar to adjudication between townships.

Under the state court approach of Newsom and Hess, Indiana retains the freedom to fashion its jurisdictional and venue rules without federal interference via § 1692i, so long as the litigation is commenced in the smallest subdivision into which the state has uniformly divided itself.[3] This permits

[3] In this respect, the Newsom/Hess rule does still infringe upon the state's ability to set its own jurisdictional and venue rules as it requires litigation to be commenced in a particular county or circuit or district, whichever is the common division that the state has elected. Thus, states with open venue rules (such as Indiana) are restricted by Section 1692i, insofar as the open

Indiana—or any other state—to create courts of limited jurisdiction, spread them throughout its major population centers, and still impose procedural rules for allocating caseloads that will not run afoul of § 1692i.

However, under the purposive approach to defining a "judicial district," the freedom of states to enact procedural and jurisdictional rules for courts of limited jurisdiction is greatly curtailed. If a state creates a court of limited jurisdiction, so long as that court's existence is in any manner defined by geography, the purposive approach would dictate that compliance with state open venue rules still runs afoul of the FDCPA.

This Court recently noted, when interpreting a federal statute, courts should do so with certain unstated assumptions in mind, principal among them being that courts are to presume that "federal statutes do not abrogate state sovereign immunity…." Bond v. United States, 134 S. Ct. 2077, 2088 (2014). It is therefore "appropriate to refer to basic principles of federalism embodied in the Constitution to resolve ambiguity in a federal statute." Id. at 2090.

This federalism problem is further illuminated by approaching the case from another perspective;

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venue rules apply to consumer debt collection cases. However, this interference is significantly less than that imposed by the purposive approach utilized below.

namely, the differences between *geographic* forum shopping and *state court judge* shopping.

The Senate Report accompanying enactment of the FDCPA provides simply that Section 1692i's venue rules are designed to curb the problem of "forum abuse," defined as "an unfair practice in which debt collectors file suit against consumers in courts which are so distant or inconvenient that consumers are unable to appear." S. REP. 95-382, at 5 (1977), *as reprinted in* 1977 U.S.C.C.A.N. 1695, 1699. This statement is further reinforced by Fair Trade Commission consent decrees entered into between the FTC and various creditors and debt collectors prior to enactment of the FDCPA. In these consent decrees, the companies agreed to refrain from filing collection litigation in counties other than where the debtor is located or signed the contract, and justified this position solely with reference to geographic travel concerns. In the Matter of S.S. Kresge Co., 90 F.T.C. 222 (1977) ("The distance, cost and inconvenience of defending such suits placed a burden on defendants and, thus, effectively deprived some defendants of the opportunity to appear, answer and defend."); In the Matter of New Rapids Carpet Center, Inc., et al., 90 F.T.C. 64 (1977) ("[Respondents] have instituted suits in the Civil Court of the City of New York against allegedly delinquent New Jersey residents, and thus have utilized a forum for lawsuit which has made it inconvenient and expensive for the New Jersey residents to appear and defend."); In re Spiegel, Inc., 86 F.T.C. 425 (1975) ("The distance, cost and inconvenience of defending such suits in Illinois

place a virtually insurmountable burden on out-of-State defendants. Respondent thus effectively deprives these defendants of a reasonable opportunity to appear, answer and defend."); In the Matter of Commercial Service Co., Inc., et al., 86 F.T.C. 467 (1975) ("Through the use of distant or inconvenient forum, respondents effectively deprive defendants of a reasonable opportunity to appear, answer and defend the lawsuits."); In the Matter of Montgomery Ward & Co., Inc.,, 84 F.T.C. 1337 (1974) ("[R]espondent regularly sues, directly or through collection agencies, allegedly defaulting purchasers in courts located far from where the purchaser defendants reside or from where they signed the contracts sued upon… The distance, cost and inconvenience of defending such suits place a virtually insurmountable burden on defendants."); In the Matter of West Coast Credit Corp. t/a Fid. Fin. Co., Inc., 84 F.T.C. 1328 (1974) ("Through this use of distant or inconvenient forum, respondent effectively deprives defendants of a reasonable opportunity to appear, answer and defend the lawsuits. Therefore, such use of a distant or inconvenient forum is unfair.").

This is a critically important concept as the purposive approach to defining a "judicial district" has grafted an additional justification onto § 1692i, indicating that it prohibits *judge* shopping as well as *geographic* forum shopping. The majority decision below, as well as the dissent from the panel decision, cite extensively to the report of an Indiana task force that found significant and persistent problems with township small claims courts. *See* John G. Baker &

Betty Barteau, Marion County Small Claims Courts Task Force, Report on the Marion County Small Claims Courts (2012), *available at* www.in.gov/judiciary/3844.htm. Principal among those concerns was that large volume debt collectors would "judge-shop" for courts more likely to be favorable to them.

There is nothing in the language of the FDCPA or in any of the legislative history accompanying that statute to suggest that Congress was motivated by a desire to curb anything more than geographic forum shopping. Moreover, the very concept of a federal court sanctioning a civil litigant in state court for "judge shopping" should amplify the serious federalism concerns implicated by the purposive approach to interpreting § 1692i.

At bottom, the "judge shopping" justification underlying the purposive approach implicitly requires one to conclude that debtors in Indiana (or any state) are being treated unfairly by certain state court judges, and that other state court judges would be fairer and better protect consumer's interests. With geographic forum shopping, one can assume harm to the debtor inherent in being forced to travel long distances to court, with no comment or critique on the impartiality of the state court judicial system. However, the judge shopping argument assumes that state court judicial systems are incapable of uniformly handling consumer collection cases, and that judge shopping or forum shopping will grant substantive advantage to the filing plaintiff. This approach essentially posits that Congress believed

that state courts were incapable of fairly and uniformly treating debtor-defendants, and passed § 1692i to correct perceived limitations in state judicial systems. Setting aside whether the federal Congress can or should use federal legislation to regulate perceived weaknesses in state judicial systems, it can certainly be said with confidence that Congress would only do so through unmistakable language and clear directives. Yet, here, the text of the statute and the legislative history is wholly silent as to this intention.

Med-1 offers the distinction between geographic forum shopping and judge forum shopping to highlight the serious and severe federalism concerns that arise from a purposive interpretation of § 1692i.

This Court should grant certiorari for these overlapping reasons. There is currently a split in the Circuits as to how to define a term in a federal statute, and that split leads to polar results in this and many similarly situated cases. Further, as the statute in question undoubtedly infringes upon the sovereign authority of the states, its interpretation is a central federal question that should be resolved by this Court.

CONCLUSION

For these reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

By_____

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APPENDICES

APPENDIX A: OPINION OF THE COURT OF APPEALS ON REHEARING EN BANC

(July 2, 2014)

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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No. 13-1821

MARK SUESZ, *Plaintiff-Appellant*,

v.

MED-1 SOLUTIONS, LLC, *Defendant-Appellee*.

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Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division
No. 1:12-cv-1517-WTL-MJD – **William T. Lawrence**, *Judge*.

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ARGUED APRIL 16, 2014 – DECIDED JULY 2, 2014

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BEFORE WOOD, *Chief Judge*, and, POSNER, FLAUM, EASTERBROOK, KANNE, ROVNER, WILLIAMS, SYKES, TINDER, AND HAMILTON, *Circuit Judges*.

HAMILTON and POSNER, *Circuit Judges*.

The federal Fair Debt Collection Practices Act ("FDCPA") requires a collector of consumer debts to file its debt-collection suit in the "judicial district or similar legal entity" where the contract was signed or where the debtor resides. 15 U.S.C. § 1692i. This appeal requires us to apply this statutory language to the nine small claims courts in Marion County, Indiana, which together hear some 70,000 civil cases each year. This interpretive issue has significant consequences not only for consumer debtors and debt collectors in Marion County but also for parties to debt-collection suits in other court systems that, depending on the answer to the interpretive question, may be vulnerable to abusive forum-shopping by debt collectors.

Defendant Med–1 Solutions, LLC filed suit in the Pike Township of Marion County Small Claims Court to collect a consumer debt from plaintiff Mark Suesz. The plaintiff alleges that the defendant violated § 1692i by filing in that court because the contract was not signed in Pike Township and the plaintiff does not live there.

In *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996), a panel of this court held that the intra-county districts used to delineate the venue of small claims cases in Illinois's Cook County Circuit Court

were not separate judicial districts for purposes of § 1692i. In this case, the district court and a split panel of this court followed the reasoning of *Newsom* to hold that the township small claims courts in Marion County are likewise not separate judicial districts; rather, the entire county is the relevant district, giving the debt collector a wide choice of venue. *Suesz v. Med–1 Solutions, LLC,* 734 F.3d 684 (7th Cir.2013). We granted the plaintiff's petition for rehearing en banc.

We conclude that the correct interpretation of "judicial district or similar legal entity" in § 1692i is the smallest geographic area that is relevant for determining venue in the court system in which the case is filed. See *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117, 123–24 (2d Cir.2011). For the small claims courts in Marion County, that smallest area is a township. We therefore reverse the judgment of the district court. We also overrule *Newsom,* which adopted a test based on details of court administration rather than on the applicable venue rules.

I. *The Factual Allegations*

Because the district court dismissed this action under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim, we review its decision *de novo* and treat as true the factual allegations of the complaint, giving the plaintiff the benefit of favorable inferences from those allegations. E.g., *Marshall–Mosby v. Corporate Receivables, Inc.,* 205 F.3d 323,

326 (7th Cir.2000) (reversing dismissal of FDCPA complaint).

Mark Suesz, who resides in Hancock County, which is immediately east of Marion County, owed money to Community North Hospital. The hospital, which is located in Lawrence Township in the northeast corner of Marion County, turned the debt over to Med–1 Solutions for collection. Med–1 sued Suesz in the Pike Township Small Claims Court. Pike Township is in the northwest corner of Marion County. The court issued a judgment against Suesz for $1,280. The validity of that judgment is not questioned in this federal lawsuit.

Suesz then filed this action under the Fair Debt Collection Practices Act, asserting that Med–1 has a practice of filing collection lawsuits in Marion County in small claims courts located in townships where the debtor defendants neither live nor signed the contracts on which they are being sued. Suesz moved to certify a plaintiff class, but the district court dismissed the case without acting on the motion. On the basis of our decision in *Newsom,* the district court concluded that the townships of Marion County are not "judicial districts" for purposes of § 1692i and so dismissed Suesz's suit. *Suesz v. Med–1 Solutions, LLC,* No. 1:12–cv–1517–WTL–MJD, 2013 WL 1183292 (S.D.Ind. March 21, 2013).

II. *The Fair Debt Collection Practices Act*

The Fair Debt Collection Practices Act seeks "to eliminate abusive debt collection practices by debt

collectors." 15 U.S.C. § 1692(e); see *Muha v. Encore Receivable Mgmt., Inc.,* 558 F.3d 623, 629 (7th Cir.2009); *Jacobson v. Healthcare Financial Services, Inc.,* 516 F.3d 85, 89 (2d Cir.2008). Consumer debts covered by the Act are usually too small to justify a lawsuit unless the suit is promptly defaulted, thereby enabling the debt collector to obtain—without incurring significant litigation cost—a judgment that it can use to garnish the debtor's wages. Given "the costs of litigation and the difficulties establishing the debt, when a debt collector cannot get payment through phone calls and letters and it has to go to court, the debt collector will often rely on default judgments as the last resort." *O'Rourke v. Palisades Acquisition XVI, LLC,* 635 F.3d 938, 940 (7th Cir.2011).

As this case illustrates, one common tactic for debt collectors is to sue in a court that is not convenient to the debtor, as this makes default more likely; or in a court perceived to be friendly to such claims; or, ideally, in a court having both of these characteristics. In short, debt collectors shop for the most advantageous forum. By imposing an inconvenient forum on a debtor who may be impecunious, unfamiliar with law and legal processes, and in no position to retain a lawyer (and even if he can afford one, the lawyer's fee is bound to exceed the debt itself), the debt collector may be able to obtain through default a remedy for a debt that the defendant doesn't actually owe.

The FDCPA is designed to protect consumer debtors against unscrupulous methods of consumer

debt collection. Thus in *Phillips v. Asset Acceptance, LLC,* 736 F.3d 1076 (7th Cir.2013), we held that the Act was violated by the disreputable tactic of suing a debtor after the statute of limitations has expired; the debt collector hopes that the debtor will be unaware that he has a complete defense to the suit and so will default, which will enable the debt collector to garnish the debtor's wages. Abusive forum-shopping is another improper method of collecting consumer debts. Accordingly, the Act provides that unless the debt sued on is secured by real estate, a debt collector can sue to collect it "only in the judicial district or similar legal entity—(A) in which such consumer signed the contract sued upon; or (B) in which such consumer resides at the commencement of the action." 15 U.S.C. § 1692i(a)(2). (If real estate is security for the loan, the suit must be brought where the property is located, § 1692i(a)(1); that will usually be an advantageous venue from the debtor's standpoint.) A violation makes the debt collector liable to the debtor for statutory and actual damages, as well as attorney fees. § 1692k.

Unfortunately the key statutory term—"judicial district"—is vague. The FDCPA does not define it, and as we explain below the phrase has no general definition or meaning that can resolve this dispute. In Indiana, Illinois, and most other states, state trial courts usually are organized by county for purposes of both court administration and venue. When that is so, it may seem natural to interpret the statutory term as referring to the county in which the debtor lives or the contract giving rise to the debt was

signed. But terms that seem plain and easy to apply to some situations can become ambiguous in other situations. This statutory term was drafted broadly—indicated by the phrase "or similar legal entity"—presumably so that it could be applied with appropriate flexibility to court systems around the country, which vary in structure and nomenclature. We believe that the term describes the township small claims courts in Marion County, which we examine next with a particular eye to the relevance of venue rules for interpreting and applying the statutory term "judicial district or similar legal entity."

The alternative approach, favored by the panel majority, would be for the court in an FDCPA case to defer to each state's definition of "judicial district." One problem with that approach is that "judicial district" is not a defined term in state law. A deeper problem is that, had Congress been content to adopt the states' rules governing jurisdiction and venue, there would have been no reason to impose venue limitations on debt collectors, as the federal Act does; the debt collector could have sued wherever state law permitted him to sue. The presence of the venue provision in the Act shows congressional dissatisfaction with allowing state law to determine where suits to collect consumer debts can be filed.

This is not to suggest that the federal law alters state rules governing jurisdiction and venue. Federal law merely imposes a limit on which state courts having jurisdiction and venue over a debt collector's claim the debt collector may sue in, consistent with

the policy of the federal law. There is nothing unusual or untoward about requiring compliance with both state and federal rules. Next we explain why the township small claims courts in Marion County must be regarded as occupying separate judicial districts in order to enforce the policy of the federal law.

III. *The Township Small Claims Courts in Marion County*

Most trial courts in Indiana are county-wide circuit or superior courts of general jurisdiction. The small claims courts serving the nine townships in Marion County (which is coterminous with Indianapolis) are important, high-volume exceptions. Pursuant to the system established by the Northwest Ordinance of 1787, the nearly square county is divided into a grid of nine nearly square townships.

State law makes the small claims courts of Marion Country nine separate courts, each designated the "_____ Township of Marion County Small Claims Court," Ind.Code § 33–34–1–2, the blank being the name of the township in question. Each court has its own judge elected by the voters of the township. § 33–34–2–1. Each court has jurisdiction over civil cases founded on contract or tort in which the debt or damage claimed does not exceed $6,000, exclusive of interest and attorney fees. § 33–34–3–2. The township small claims courts are housed, funded, and staffed by the respective township governments rather than the state or county governments. § 33–34–6–1 *et seq.* "In essence, the Marion County small

claims courts are township-level judicial entities." *In re Mandate of Funds for Center Township of Marion County Small Claims Court,* 989 N.E.2d 1237, 1239 (Ind.2013) (resolving disputes between one township court and the township's governing bodies over court's funding, location, and administration).

These smaller judicial districts were established for the convenience of litigants and the avoidance of docket congestion, but the panel's decision gave debt collectors suing in Marion County the choice of which of the nine courts to sue in, just as if the nine were one. The debt collector thus could choose the township court that was most inconvenient for the defendant, friendliest to creditors, or both. To adopt this interpretation would undermine the venue provision of the Fair Debt Collection Practices Act. It would amount to saying that Congress had created the provision with one hand and simultaneously nullified it with the other.

Indiana's current statute determining venue, Indiana Code § 33–34–3–1, makes venue depend on townships in a small claims suit in Marion County.[1]

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[1] Indiana Code § 33–34–3–1 reads in its entirety:

(a) Except for a claim between landlord and tenant, a case within the jurisdiction of a small claims court may be:

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

When defendant Med–1 Solutions sued plaintiff Suesz in the Pike Township small-claims court, the applicable court rule that had been promulgated by the Indiana Supreme Court provided for broader venue than the current state statute. Small Claims Rule 12 then read in relevant part:

(A) Proper venue. Proper venue for a case filed in the small claims docket of a Circuit, Superior, or County Court shall be in the county where the transaction or occurrence actually took place or where the obligation was incurred or is to be performed, or where one of the defendants resides or has his or her place of employment at the time the complaint is filed.

Proper venue of any claim between landlord and tenant ... filed in county small claims courts created pursuant to IC 33–34–1–2 [i.e., township courts in

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(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the small claims court, the court shall rule whether required venue lies in the township of filing.

Marion County] shall be in the county and township division of the Small Claims Court where the real estate is located.

The differences between the venue court rule and the venue statute reflect significant changes in the small claims courts that were made in 1999 to settle a Voting Rights Act lawsuit, but to which the court rules were not conformed until much later.[2]

Before 1999, the small claims courts in the nine townships had been organized as divisions of the Marion Superior Court, and both the venue statute and the venue rule specified venue by township rather than by county only for landlord-tenant claims. For all other cases venue was countywide. The problem under the Voting Rights Act was that the nine judges of those small claims divisions of the Marion Superior Court were each elected by only one township, but all exercised authority over disputes arising throughout the county. The nine townships differed dramatically in terms of overall population and racial composition. The combination of election-by-township and countywide authority substantially diluted the voting power of African–Americans.

After a federal district court denied the defendants' motion for summary judgment in *Anderson v. Mallamad,* No. IP94–1447–C H/G, 1997

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[2] Small Claims Rule 12 was amended effective January 1, 2014, to conform the venue requirements for the township small claims courts to the more demanding Indiana statute and to direct the judges of those courts to act *sua sponte* to order dismissal or a change of venue to a correct township.

WL 35024766 (S.D.Ind. March 28, 1997), the parties to the voting rights suit settled by agreeing to the enactment of state legislation that would retain the election of judges by township but make each township court much more independent and—critically for the present case—provide for venue by township. See Ind. Pub.L. 95–1999. Tying together the election district for the judge and the venue of the court provided an arguable justification for what would otherwise have been unacceptable disparities in voting populations in judicial elections. See *Houston Lawyers' Ass'n v. Attorney General of Texas,* 501 U.S. 419, 426–27, 111 S.Ct. 2376, 115 L.Ed.2d 379 (1991) (state's interest in maintaining link between a state district judge's jurisdiction and the area of residency of his or her voters was a legitimate factor as part of "totality of circumstances" in deciding whether arrangement violated 42 U.S.C. § 1973).

But even after the 1999 statutory changes a defendant sued in the wrong township court had to appear in that court (within just ten days) in order to move for a change of venue. If he missed the deadline, he was stuck in that court, however inconvenient for him. Moreover, as the panel opinion in this case pointed out, 734 F.3d at 690–91, the 1999 legislation did not make the township small claims courts entirely independent of one another or of the Marion Circuit Court. The circuit judge was required to "extend aid and assistance to the judges in the conduct of the township small claims courts," Ind.Code § 33–34–1–5, and to "make and adopt uniform rules for conducting the business of the

small claims court," § 33–34–3–6, and was empowered to transfer cases from one township small claims court to another, § 33–34–5–1, and to arrange for the judges of the township small claims courts to substitute for each other with the consent of the respective judges. § 33–34–5–3.

An investigation of the township courts by a task force of two Indiana Court of Appeals judges identified serious venue problems in those courts. Small Claims Task Force, Report on the Marion County Small Claims Courts, pp. 13–14 www. in. gov/ judiciary/ files/ pubs- smclaims- rept- 2012. pdf (visited July 2, 2014). Many defendants are unaware of their right to ask the courts to transfer a case to the townships where they live. *Id.* at 13. And paradoxically, although township courts were intended to be more convenient for parties, they could be less convenient than if the venue were countywide. The combination of the size of the county, the nine court locations, limited public transportation other than to and from the center of the county, and the debt collectors' ability to file in any township made it harder for many small claims defendants in Marion County to get to court than it was for defendants in counties in which the courts were centrally located. *Id.* at 14.

The task force also acknowledged concerns that "large-volume filers appear to file their cases in township courts that appear to provide outcomes favorable to them or provide less oversight for settlement negotiations and settlement agreements," and that townships have an incentive to pressure

judges to "favor large-volume filers in order to generate revenue for the township from filing fees." *Id.* Without specifically endorsing those concerns, the task force found that judges who "have made efforts to review settlement terms, as opposed to judges who allegedly rubber-stamp settlement agreements, have seen dramatic declines in new filings in their township courts," as shown by state judicial statistics. *Id.*

IV. "*Judicial District or Similar Legal Entity*"

The key statutory term that we must interpret—"judicial district"—is not a term of art. It has no statutory definition, and it is inherently flexible, enabling it to be adapted to a variety of state court structures.

The few cases dealing with unusual court structures such as found in Marion County or in Cook County, Illinois, take three different approaches to deciding what is a judicial district or similar legal entity. First, in *Newsom* we relied on what was said to be the plain language of the statute, 76 F.3d at 816–17, though the language is not plain at all when applied to the Marion County township courts. Going beyond the statutory language, a second approach also found in *Newsom* and in the panel opinion in the present case focuses on a variety of details of internal judicial administration that affect judges and court personnel.

The third approach, which we adopt, focuses on the state court venue rules faced by parties and lawyers, and the relevant geographic unit for applying those rules. Under this approach the relevant judicial district or similar legal entity is the smallest geographic area relevant to venue in the court system in which the case is filed. This interpretation of the statutory term discourages abusive forum-shopping by debt collectors rather than enabling it. In addition to better serving the debtor-protective policy of the FDCPA than the alternative approaches, this venue-based approach should be more predictable and easier to apply than *Newsom's* multi-factor test, which requires consideration of numerous details of court administration.

A. Plain Language?

Newsom held that a "municipal department district" of the Cook County Circuit Court in Illinois is not a "judicial district or similar legal entity" under § 1692i. A general order of that court had established six geographically distinct "municipal department districts" that would hear civil actions seeking damages not to exceed $30,000, including many consumer debt-collection actions. 76 F.3d at 818. Another court order directed that civil actions be filed in the municipal department district where a defendant resided or the transaction occurred. *Id.*

Newsom asserted that "judicial district" in the FDCPA has a plain meaning that prevents classifying a "municipal department district" in Cook

County as a judicial district. The opinion relied heavily on the edition of a legal dictionary dating from when the FDCPA was enacted, which defined "judicial district" as

> one of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; or the district may include two or more counties, having separate and independent county courts, but in that case they are presided over by the same judge.

76 F.3d at 817, quoting *Black's Law Dictionary* 848 (6th ed.1990), and noting that the definition in the 4th edition, which was the current edition in 1977 when the FDCPA was enacted, was identical.

For two reasons this dictionary definition does not provide a "plain language" resolution of the issue we face. First, its content is too vague to provide meaningful guidance. Dictionaries can be useful in interpreting statutes, see, e.g., *Octane Fitness, LLC v. ICON Health & Fitness, Inc.,* ——U.S. ——, 134 S.Ct. 1749, 1756, 188 L.Ed.2d 816 (2014), but judges and lawyers must take care not to "overread" what

dictionaries tell us.[3] The most striking features of the dictionary definition in question are its looseness and the inconclusiveness of the component parts of the definition—"circuits or precincts," "commonly divided," "usually provided," and "may include." Add in the FDCPA's safety valve—"or similar legal entity"—and the dictionary definition, instead of mandating the decision in *Newsom,* allows ample room for classifying Cook County's divisional courts and Marion County's small-claims courts as "judicial districts."

Second, even if the definition were narrow and specific enough to support *Newsom* and the defendant's position in the present case, the critical question would be what weight to give it in interpreting the venue provision of the FDCPA. The dictionary definition has no solid basis in law that helps us with our question. Nor is there any link to the enactment of the FDCPA.

A law dictionary differs from an ordinary dictionary, one would suppose, in basing its definitions on legal rather than ordinary usage. So where did *Black's* get its definition of "judicial

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[3] For skeptical views of dictionaries as guides to statutory interpretation, see, e.g., *Jordan v. De George,* 341 U.S. 223, 234, 71 S.Ct. 703, 95 L.Ed. 886 (1951) (Jackson, J., dissenting) (describing dictionaries as "the last resort of the baffled judge"); Frank H. Easterbrook, *Text, History, and Structure in Statutory Interpretation,* 17 Harv. J.L. & Pub. Pol'y 61, 67 (1994) ("the choice among meanings [of words in statutes] must have a footing more solid than a dictionary—which is a museum of words, an historical catalog rather than a means to decode the work of legislatures").

district"? That's not easy to say. The second edition of *Black's* cited at the end of the definition three cases, presumably believed to be the sources of the definition or to explain or illustrate it: *Ex parte Gardner,* 22 Nev. 280, 39 Pac. 570 (1895); *Lindsley v. Board of Supervisors of Coahoma County,* 69 Miss. 815, 11 So. 336 (1892); and *Commonwealth v. Hoar,* 121 Mass. 375 (1876). The third edition added a fourth case, *Consolidated Flour Mills Co. v. Muegge,* 127 Okla. 295, 260 Pac. 745 (1927), reversed on other grounds, 278 U.S. 559, 49 S.Ct. 17, 73 L.Ed. 505 (1928) (per curiam), while retaining the previous three. The fourth edition retained all four cases. The fifth edition (1979) retained the definition of "judicial district" (unchanged since the second edition), but dropped the citations without explanation.

The later editor may have realized that the four cases cited in the earlier editions did not support the definition. The definition, interpreted as favorably as it could be to the decision in *Newsom,* might be thought to imply that a judicial district is created by the legislature and encompasses one or more counties. But the dictionary's case citations undermine that implication. The *Lindsley* and *Hoar* cases enforced the division of counties into *smaller* judicial districts. *Consolidated Flour Mills* (the only twentieth-century case of the four) rejected a foolish challenge to a court's power to act after the forum county had been reassigned from one multi-county district to another. The court in that case defined "judicial district" very broadly (semantically, rather than geographically): "The term 'judicial district' is but a political and convenient arrangement for

electing judges of the district court and prescribing primarily the territorial jurisdiction of the district judge, or where he may lawfully preside without special authority from the Supreme Court." 260 Pac. at 752. That flexible definition encompasses the divisional courts in *Newsom* and the township small claims courts in the present case.

Gardner is delphic: "A judicial district is simply a political division, provided for by the constitution, but arranged by the legislature, for the purpose of economizing in the number of judges. In fact, the inclusion of any two counties in the same district may almost be said to be accidental." 39 Pac. at 570. The court did go on to hold (and this part of the holding is echoed in the definition of "judicial district" in *Black's*) that even though the two counties' courts were in the same "judicial district," "the courts of those counties are still separate and distinct," and neither could exercise jurisdiction, even with the parties' consent, over a case brought in the other court. *Id.* Realistically, then, the two counties in Gardner were separate judicial districts.

The loose definition of "judicial district" in *Black's Law Dictionary* thus had no real basis in law, as implied by the editor's deletion first of the case citations (in the 1979 edition) and finally of the definition itself (in the 1999 edition).

There is also no indication that the drafters of the Fair Debt Collection Practices Act were aware of the dictionary definition, let alone that they viewed it as helpful, particularly in light of the catch-all

extension of § 1692i to a "similar legal entity." The report of the Senate Committee urging adoption of the proposed Act did not mention the definition but instead expressed concern with

> the problem of "forum abuse," an unfair practice in which debt collectors file suit against consumers in courts which are so distant or inconvenient that consumers are unable to appear. As a result, the debt collector obtains a default judgment and the consumer is denied his day in court. In response to this practice, the bill adopts the "fair venue standards" developed by the Federal Trade Commission. A debt collector who files suit must do so either where the consumer resides or where the underlying contract was signed.... The Commission reports that this standard is effective in curtailing forum abuse without unreasonably restricting debt collectors.

S. Rep. 95–382, at 5, 1977 U.S.C.C.A.N. 1695, 1699.

The Senate report is entitled to more weight than a vague dictionary entry. Although the report offers no guidance for our case more specific than a reminder of the statutory goal of preventing abusive forum-shopping, that goal deserves great weight in interpreting an uncertain statutory term.

B. The Judicial Administration Approach in Newsom

Newsom did not rely on the statutory language and the law dictionary alone. It also focused on court administration. The opinion recognized that some orders of the Cook County Circuit Court seemed to reflect a venue requirement that small claims cases be filed in particular subdistricts of the county. But relying on another order of that court, the opinion held that the entire county was the relevant judicial district for purposes of venue under the FDCPA. 76 F.3d at 818–19. That second order provided that any case could be assigned to any judge of the court and heard in any courtroom in the county, regardless of where the case had been filed. The order further provided that no action would be dismissed or judgment vacated because the action had been filed or decided in the wrong department, division, or district. *Id.* at 819. *Newsom* concluded that what seemed to be venue rules were merely matters of administrative convenience for the unitary Cook County Circuit Court, which had just one chief judge and one administration, and that the boundaries between municipal department districts did not set any territorial limits to the legal authority of the courts sitting in particular districts. *Id.*

The panel majority in the present case was understandably reluctant, for reasons of *stare decisis,* to depart from the reasoning of *Newsom*. The panel opinion thus reasoned that even though the township small claims courts in Marion County had limited venue, the power of each township court to hear a

case from elsewhere in the county and the circuit judge's power to transfer cases and judges among townships made the case similar enough to *Newsom* to dictate the same outcome.

But *Newsom's* focus on an array of details of judicial administration lost sight of the purpose of § 1692i: to prevent abusive forum-shopping. By treating an entire county as a "judicial district" even though the county has been subdivided into smaller districts for purposes that included delineating the venue of small claims courts, *Newsom* turned a protection for consumer debtors into a weapon for debt collectors. Where the county courts are in one central location there is at least a reasonably level playing field for both sides in terms of venue. *Newsom* gave debt collectors new opportunities for forum-shopping. They could choose from among several courts to find one inconvenient for the debtor, friendly to the collector, or both. Cf. Report on the Marion County Small Claims Courts, *supra,* at 13–14.

The *Newsom* approach, which is indifferent to distance and inconvenience even where the state courts use smaller units to decide venue, has even graver implications for counties larger than Cook (land area 1635 square miles) or Marion (403 square miles). There are many *much* larger counties. The area of the nation's 100th largest county, Eureka County in Nevada, is 4180 square miles—twice the combined area of Cook and Marion Counties. The largest county in the United States is San Bernardino County in southern California. With

more than 20,000 square miles, it's more than twelve times larger than Cook County and almost fifty times larger than Marion County.

Like Cook County, San Bernardino County has divisions, each with its own courts, and like Marion County it has small claims courts. But all the courts are part of the Superior Court of San Bernardino County, which corresponds to the Cook County Circuit Court. See Small Claims, Superior Court of California, County of San Bernardino, www. sbcourt. org/ Divisions/ Small Claims. aspx (visited July 2, 2014). The logic of *Newsom* would allow a debt collector to sue a debtor in any court in San Bernardino County, regardless of distance. And distances in San Bernardino County can indeed be long. The county is more than 200 miles from east to west at its widest point, and 150 miles from north to south.

There are differences between the Cook County Circuit Court in *Newsom* and the township small claims courts in Marion County in terms of judicial administration, as plaintiff Suesz argues. The township small claims courts have greater independence than Cook County's municipal department district courts, all nine courts having been as we've pointed out established as separate courts with separate election districts, administration, staffing, and funding, and even separate seals, and their separate status and the accompanying venue rules having been created in order to remedy a problem of constitutional dimensions under the Voting Rights Act. Our

dissenting colleagues do not find these differences persuasive. These special circumstances might enable us to distinguish *Newsom's* treatment of the municipal department districts of Cook County. We do not follow that path, however, because the differences in judicial administration between Cook County and Marion County have nothing to do with the purpose of § 1692i in particular or the FDCPA in general.

C. The Venue Approach

Our approach is similar to that of the Second Circuit in *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117 (2d Cir.2011). A consumer debt collector had sued a debtor in the Syracuse City Court in New York. The city court lacked power to hear the case because the debtor did not reside in Syracuse or a town contiguous to it, though he did live within the county containing the city court. The city court dismissed the debt-collection suit. The debtor then sued the debt collector in federal court under the FDCPA. The district court dismissed the case on the theory that the county was the relevant "judicial district," and the debt collection suit had been filed in the county in which the debtor lived. The Second Circuit reversed. Its decision was based on the applicable venue rules of the court in which the collection case had been filed. Here are the key passages in its opinion:

> Because the court system of which [the collector] availed itself is governed by laws that limit the territorial extent of

> those courts based on, *inter alia,* a defendant's contacts with the forum, we hold that those laws delimit the 'judicial district' by which compliance with the FDCPA's venue provisions must be measured.
>
> * * * * * *
>
> Where, as here, a state law outlines the required nexus between the residence or activities of the consumer and the location of the court, we hold that such a law sets forth the appropriate 'judicial district' for purposes of the FDCPA with respect to debt collection actions brought in that court, regardless of whether that provision is styled as jurisdictional or otherwise.

637 F.3d at 123, 124.

The court made clear that it was focusing on geographic divisions for purposes of determining venue rather than jurisdiction. The geographic limits of the Syracuse City Court's power were not jurisdictional, for they could be waived by the parties. See 637 F.3d at 122–24 & n. 4. They were limits on venue, much like the waivable limits on venue in the Cook County municipal department districts in *Newsom* and the Marion County township small claims courts in this case.

Focusing on the geographic unit that is relevant for venue in the court system where the case was filed adapts the FDCPA venue provision in § 1692i to the varied court systems among and within the states. That approach worked in *Hess* for the city courts in New York and it will work for the township small claims courts in Marion County. It should also work in the huge San Bernardino County, which also uses internal districts for small claims cases. See generally *Fox v. Citicorp Credit Services, Inc.,* 15 F.3d 1507, 1515 (9th Cir.1994) (two Arizona counties were separate judicial districts under FDCPA, even though state had one unitary superior court, where the state provided a formal transfer mechanism between counties); *Nichols v. Byrd,* 435 F.Supp.2d 1101, 1108 (D.Nev.2006) (finding FDCPA venue violation where suit was filed in a township court in which the debtor did not live and the lease giving rise to the alleged debt had not been signed).

What we are calling the "venue approach" should avoid the confusion that would be likely to result if we distinguished between small claims courts that are divisions of a larger court and those that are independent, or if we relied on an ill-defined mixture of administrative details such as whether cases can be transferred for the convenience of the parties among smaller districts within a county or whether judges can substitute for each other, let alone how the courts are managed, funded, and staffed. Such details are not easy for either debt collectors or debtors to learn, and there is no predictable formula for applying them. But more fundamentally, they

have nothing to do with preventing abusive forum-shopping to collect consumer debts.

D. *The Relationship Between Federal and State Law*

The Fair Debt Collection Practices Act does not tell states how to organize or operate their court systems. Nor does it directly control court procedures such as venue rules. A debt collector for consumer debts may comply with state law, obtain a perfectly valid state court judgment, and simultaneously violate the FDCPA by suing in the wrong venue.

Suppose, for example, that state law allowed venue in the township where the plaintiff does business, and suppose a debt collector filed all its consumer debt collection suits in that township regardless of where the defendants lived or where the contracts giving rise to the alleged debts had been signed. Those suits would comply with state law but would violate the FDCPA. Such violations would not undermine the validity of state court judgments in favor of a debt collector, but they would provide the basis for federal remedies against the debt collector.

In essence, then, the FDCPA takes state courts as states choose to structure and operate them. Section 1692i then provides federal remedies for violations of the new federal requirements for venue in consumer debt-collection cases covered by the federal law. The

remedies are available whether or not the filing of the case complies with state law.[4]

At the same time, and for the same reasons, we do not think it matters for purposes of § 1692i whether the state venue rules are established by state statute or court rule (as here), by standing court order (as in *Newsom*), or by any other mechanism. The relevant judicial district or similar legal entity is the smallest geographic unit relevant for venue purposes in the court system in which the case was filed, regardless of the source of the venue rules.

One implication of our analysis is that a consumer debt collector filing suit in Marion County still retains a limited choice of venue, at least in theory and as a matter of federal law. The jurisdiction of the township small claims courts over small claims cases is concurrent with the jurisdiction of the county's circuit and superior courts. Ind.Code § 33–34–3–2. In the circuit and superior courts in Marion County, as in the rest of Indiana, venue is county-wide. If therefore a debt collector chooses to file suit in a circuit or superior court, he could file it in a

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[4] The prospect that a venue choice could comply with state law while violating federal law does not depend on the size of the judicial district or on how the statutory term is interpreted. That tension is inherent in § 1692i. It would still be present, for example, if state law allowed venue in another county, such as one where the plaintiff does business. The legislative history of the FDCPA states that the venue provision "does not change State or Federal law relating to venue [or] service of process." H.R.Rep. No. 95–131, at 6 (1977). But the report was merely making clear that the law's venue requirements would apply only to consumer debt collectors and would not impose broader changes on state venue law.

courthouse in the center of the county. But if the debt collector chooses to file suit in a township small claims court, venue is determined at the township level, thus requiring the debt collector to select a township consistent with the FDCPA's limitations on abusive forum-shopping.

In practice, though, the potential for confusion or misuse should be minimal. The judges of the circuit and superior courts can transfer any small claims case to an appropriate township small claims court, Ind.Code § 33–34–5–2, and this is done routinely. (In fact, despite the concurrent jurisdiction, the clerk of those county courts informs litigants that a case seeking a judgment equal to or less than $6,000 *must* be filed in a small claims court and that the county clerk's office does not even support the small claims courts. See Civil Filings: Case Type, City of Indianapolis and Marion County, www. indy. gov/ e Gov/ County/ Clerk/ civil/ Pages/ Case- Types. aspx (visited July 2, 2014).) Also, the civil filing fee in the circuit and superior courts is nearly twice the filing fee for a small claims case ($141 versus $82), and the township small claims courts generally move their civil dockets faster than the circuit and superior courts, which makes the small claims courts more attractive to debt collectors. Again, however, the FDCPA takes the state courts as it finds them.

V. Retroactivity

Our interpretation of § 1692i requires us to reverse the judgment of the district court and to remand for further proceedings on class certification

and the merits of plaintiff's claim. But Med–1 Solutions, perhaps seeing the handwriting on the wall, asks that if we overrule *Newsom,* as we do today, we should do so only on a prospective basis. It argues that debt collectors have relied on *Newsom* to allow them to choose venue anywhere in the appropriate county.

As a general matter, adopting a new rule while refusing to apply it to the parties before us would raise serious constitutional concerns. We exercise judicial authority rather than the prospective authority of a legislature. See *Harper v. Virginia Dep't of Taxation,* 509 U.S. 86, 106, 113 S.Ct. 2510, 125 L.Ed.2d 74 (1993) (Scalia, J., concurring) ("The true *traditional* view is that prospective decisionmaking is quite incompatible with the judicial power, and that courts have no authority to engage in the practice.") (emphasis in original); *James B. Beam Distilling Co. v. Georgia,* 501 U.S. 529, 547, 111 S.Ct. 2439, 115 L.Ed.2d 481 (1991) (Blackmun, J., concurring in judgment) ("the nature of judicial review constrains us to consider the case that is actually before us, and, if it requires us to announce a new rule, to do so in the context of the case and apply it to the parties who brought us the case to decide. To do otherwise is to warp the role that we, as judges, play in a Government of limited powers"); *Firestone Tire & Rubber Co. v. Risjord,* 449 U.S. 368, 379, 101 S.Ct. 669, 66 L.Ed.2d 571 (1981) (no prospective application of jurisdictional rulings).

The Supreme Court has left itself some room to give its rulings in civil cases only prospective effect,

at least "to avoid injustice or hardship to civil litigants who have justifiably relied on prior law." See *Harper v. Virginia Dep't of Taxation, supra,* 509 U.S. at 110–13, 113 S.Ct. 2510 (Kennedy, J., concurring in part and concurring in the judgment), quoting *American Trucking Ass'ns v. Smith,* 496 U.S. 167, 199, 110 S.Ct. 2323, 110 L.Ed.2d 148 (1990) (plurality opinion); *Felzen v. Andreas,* 134 F.3d 873, 877 (7th Cir.1998).

The Supreme Court's reservation of such a power does not persuade us to make the present decision effective only prospectively; and this for two reasons: First, reliance on prior law is insufficient in itself to justify making a new judicial ruling prospective. See *Reynoldsville Casket Co. v. Hyde,* 514 U.S. 749, 753–54, 115 S.Ct. 1745, 131 L.Ed.2d 820 (1995) (reversing state court's decision to give new U.S. Supreme Court ruling only prospective effect). Second, a prior decision of one intermediate appellate court does not create the degree of certainty concerning an issue of federal law that would justify reliance so complete as to justify applying a decision only prospectively in order to protect settled expectations. See *Anderson–Bey v. Zavaras,* 641 F.3d 445, 454–55 (10th Cir.2011) (declining to apply new decision only prospectively despite party's reliance on prior circuit decision); *Hawknet, Ltd. v. Overseas Shipping Agencies,* 590 F.3d 87, 91 & n. 7 (2d Cir.2009) (same); but see *Nunez–Reyes v. Holder,* 646 F.3d 684, 690 (9th Cir.2011) (en banc) (giving only prospective effect to new decision conforming circuit law to decisions of other circuits and of the Board of Immigration Appeals). Prospective overruling on reliance grounds

is impermissible unless the law had been so well settled before the overruling that it had been unquestionably prudent for the community to rely on the previous legal understanding.

So suppose we affirmed the dismissal of this case and the Supreme Court then granted certiorari and reversed. Neither our prior decision in *Newsom* nor the panel's decision in this case would have justified giving the ruling only prospective effect on the basis of justified reliance by (in this case) debt collectors in Marion County.

The judgment of the district court dismissing this action is REVERSED and the case is REMANDED to the district court for further proceedings consistent with this opinion.

SYKES, *Circuit Judge*, concurring.

This case concerns the proper interpretation of the so-called "venue provision" in the Fair Debt Collection Practices Act ("FDCPA"). Here's the full text of the statute, with the key language italicized:

> **§ 1692i. Legal actions by debt collectors**
>
> **(a) Venue**
>
> Any debt collector who brings any legal action on a debt against any consumer shall—

> **(1)** in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or
>
> **(2)** in the case of an action not described in paragraph (1), *bring such action only in the judicial district or similar legal entity—*
>
> **(A)** *in which such consumer signed the contract sued upon; or*
>
> **(B)** *in which such consumer resides* at the commencement of the action.

15 U.S.C. § 1692i (emphases added).

By its terms, § 1692i requires any debt collector who sues on a consumer debt to file suit in the "judicial district or similar legal entity" in which the consumer resides or contracted the debt. But the statute does not define "judicial district," and the term is difficult to interpret and apply to debt-collection actions filed in state courts, which vary widely in their administrative structures and rules for jurisdiction and venue.

In *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996), we resolved the interpretive difficulty by extrapolating from the *Black's Law Dictionary* definition of "judicial district" and also by looking to

the jurisdictional, procedural, and administrative rules that govern this kind of litigation in the relevant state court system. The panel majority followed that approach here. We reheard the case en banc to consider whether to overrule *Newsom* and adopt a different interpretation of the phrase "judicial district or similar legal entity."

I agree with much of what Judges Hamilton and Posner have written for the en banc court, as well as the court's decision to overrule *Newsom*. But I also share some of the concerns expressed by Judge Flaum in dissent, which I understand to be rooted at least in part in principles of federalism. In the end, I arrive at the same conclusion as the majority, though by a somewhat different route.

Section 1692i is an unusual federal statute. As written, it establishes a venue rule for "any legal action" to collect a consumer debt, including debt-collection actions filed in state court. Most suits to collect consumer debts are state-law claims for breach of contract, and most of these actions are filed in state court because they don't meet the $75,000 amount-in-controversy threshold for invoking the federal court's diversity jurisdiction. *See* FED. TRADE COMM'N, REPAIRING A BROKEN SYSTEM: PROTECTING CONSUMERS IN DEBT COLLECTION LITIGATION AND ARBITRATION 6 (2010) ("Debt collection lawsuits almost invariably are filed in state courts...."); FED. RESERVE BANK OF N.Y., QUARTERLY REPORT ON HOUSEHOLD DEBT AND CREDIT 15 (Nov.2012) (reporting that the average collection amount was about $1,500 in

the first quarter of 2012); *see also* 28 U.S.C. § 1332. But it's doubtful that Congress has the power to prescribe procedural rules for state-law claims in state courts. *See generally* Anthony J. Bellia Jr., *Federal Regulation of State Court Procedures,* 110 YALE L.J. 947 (2001); Wendy E. Parmet, *Stealth Preemption: The Proposed Federalization of State Court Procedures,* 44 VILL. L.REV.. 1 (1999).

Of course, when Congress creates a cause of action over which the state courts have concurrent jurisdiction, the state courts are bound by the Supremacy Clause to adjudicate the claim, *see Testa v. Katt,* 330 U.S. 386, 393–94, 67 S.Ct. 810, 91 L.Ed. 967 (1947), and sometimes this includes the obligation to follow federal procedural rules that are specifically tied to the federal claim. For example, the Supreme Court has held that some federal procedural rules may apply in state-court litigation if the rules are "part and parcel" of the federal cause of action being adjudicated in state court. *Dice v. Akron, Canton & Youngstown R.R.,* 342 U.S. 359, 363, 72 S.Ct. 312, 96 L.Ed. 398 (1952) (holding that the statutory right to a jury trial in actions under the Federal Employers' Liability Act ("FELA") applies in Ohio state court despite a state procedural rule requiring that certain factual questions be decided by the court); *see also Cent. Vt. Ry. Co. v. White,* 238 U.S. 507, 512, 35 S.Ct. 865, 59 L.Ed. 1433 (1915) (holding that a FELA provision allocating the burden of proving contributory negligence to the defendant applies in state court despite a contrary state procedural rule).

The Court has also held that state procedural rules may be displaced when they conflict with or unnecessarily burden the substance of a federal cause of action being litigated in state court. *See, e.g., Felder v. Casey,* 487 U.S. 131, 150, 108 S.Ct. 2302, 101 L.Ed.2d 123 (1988) (holding that a state law imposing a 120–day notice-of-injury prerequisite for claims against governmental defendants is preempted in actions under 42 U.S.C. § 1983); *Brown v. W. Ry. of Ala.,* 338 U.S. 294, 298–99, 70 S.Ct. 105, 94 L.Ed. 100 (1949) (barring application of a state-court pleading rule that interfered with the plaintiff's substantive federal rights).

But these cases involved *federal* claims being adjudicated in state court. It's an open question whether Congress has the power to prescribe procedural rules for *state-law* claims in state court. The Supreme Court has twice noted the issue but declined to decide it. In *Jinks v. Richland County,* 538 U.S. 456, 123 S.Ct. 1667, 155 L.Ed.2d 631 (2003), the Court addressed a constitutional challenge to a provision in the supplemental jurisdiction statute that tolls the statute of limitations on a supplemental state-law claim "while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period." 28 U.S.C. § 1367(d). The Court held that the tolling provision is "necessary and proper for carrying into execution Congress's power '[t]o constitute Tribunals inferior to the supreme Court,' U.S. Const., Art. I, § 8, cl. 9, and to assure that those tribunals may fairly and efficiently exercise '[t]he judicial Power of the United States,' Art. III, § 1."

Jinks, 538 U.S. at 462, 123 S.Ct. 1667. The challenger had also argued that § 1367(d) violates the principles of state sovereignty articulated in *Printz v. United States,* 521 U.S. 898, 918–22, 117 S.Ct. 2365, 138 L.Ed.2d 914 (1997), *see also New York v. United States,* 505 U.S. 144, 112 S.Ct. 2408, 120 L.Ed.2d 120 (1992), and that Congress lacks the authority to "prescribe procedural rules for state courts' adjudication of purely state-law claims." *Jinks,* 538 U.S. at 464, 123 S.Ct. 1667. The Court construed the tolling provision as a substantive rule, not a procedural one, and on that basis declined to address the state-sovereignty question. *Id.* at 465, 123 S.Ct. 1667 ("[T]he tolling of limitations periods falls on the 'substantive' side of the line. To sustain § 1367(d) in this case, we need not (and do not) hold that Congress has unlimited power to regulate practice and procedure in state courts.").

In *Pierce County v. Guillen,* 537 U.S. 129, 132–33, 123 S.Ct. 720, 154 L.Ed.2d 610 (2003), the Court rejected a constitutional challenge to 23 U.S.C. § 409, which protects traffic-hazard data "compiled or collected" by the States pursuant to certain federal highway safety programs from being used as evidence in federal and state court proceedings. The Court held that § 409 was a proper exercise of Congress's power under the Commerce Clause to regulate the channels of interstate commerce—there, the nation's highways. *Id.* at 146–47, 123 S.Ct. 720. In a footnote the Court noted that the challengers had also argued that § 409 "violates the principles of dual sovereignty embodied in the Tenth Amendment because it prohibits a State from exercising its

sovereign powers to establish discovery and admissibility rules to be used in state court for a state cause of action." *Id.* at 148 n. 10, 123 S.Ct. 720. The Court declined to address the question because the lower court had not yet done so. *Id.*

No constitutional argument is raised here; this case presents only a question of statutory interpretation. Still, our statutory interpretation inquiry should be informed by important background principles of federalism. *See Bond v. United States,* –– U.S. ——, 134 S.Ct. 2077, 2090, 189 L.Ed.2d 1 (2014) ("[I]t is appropriate to refer to basic principles of federalism embodied in the Constitution to resolve ambiguity in a federal statute."); *see also Gregory v. Ashcroft,* 501 U.S. 452, 460–61, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991).

My colleagues seem to acknowledge this point, if only implicitly. For example, they say that§ 1692i "does not tell states how to organize or operate their court systems" or "directly control court procedures such as venue rules," but instead "takes the state courts as it finds them." Majority op. at 647–48, 649. I agree, but not because that limitation is clear from the text of the statute, which on its face establishes a uniform federal venue rule applicable to *all* actions to collect consumer debts, even state-law actions filed in state court. Section 1692i can function as written—as a venue rule—for debt-collection actions in federal court. But it *can't* function that way for debt-collection actions in state court, or at least it probably can't. Operating a judicial system is a core function of state government, and because the States

have the sovereign authority to structure their court systems and establish their own jurisdictional and procedural rules, we must give § 1692i an interpretive gloss—by saying that it "takes the state courts as it finds them"—in order to avoid serious constitutional difficulty.

So as applied to debt-collection actions in state court, § 1692i must be understood not as a venue rule but as a penalty on debt collectors who use state venue rules in a way that Congress considers unfair or abusive. *See* 15 U.S.C. § 1692k(a) (establishing a civil remedy for damages against any debt collector who "fails to comply with any provision of this subchapter"); *see also* 15 U.S.C. § 1692 (congressional findings and declaration of purpose). Even on this understanding, however, the statute is not free from constitutional doubt. If Congress lacks the authority to prescribe venue rules for the state courts, then it may also lack the authority to impose a federal penalty—in the form of a damages remedy—on litigants who do not file their state-court lawsuits where Congress says they must. In the final constitutional analysis, there may not be much difference between a federal law establishing a venue rule for state-law litigation in state court (probably unconstitutional) and a federal law establishing a damages remedy for not following a federally prescribed rule about venue in state court.

My colleagues note that "[t]he presence of the venue provision in the Act shows congressional dissatisfaction with allowing state law to determine where suits to collect consumer debts can be filed."

Majority op. at 640. No doubt that's true, but this just highlights the constitutional question about the limits on Congress's authority to regulate venue in the state courts. They say that § 1692i doesn't "alter[ ] state rules governing jurisdiction and venue" but "merely imposes a limit on which state courts having jurisdiction and venue over a debt collector's claim the debt collector may sue in, consistent with the policy of the federal law." *Id.* In the next sentence, we are reassured that "[t]here is nothing unusual or untoward about requiring compliance with both state and federal rules." *Id.* I'm not so sure that's true in this context. The States have the sovereign authority to establish the jurisdictional and procedural rules that apply in their courts. Section 1692i overrides state venue rules, albeit indirectly, by imposing a federal damages remedy against state-court litigants who do not comply with the federal requirement.

Sometimes Congress can do indirectly what it lacks the power to do directly. *See, e.g., South Dakota v. Dole,* 483 U.S. 203, 210–11, 107 S.Ct. 2793, 97 L.Ed.2d 171 (1987) (holding that Congress may condition States' receipt of a portion of their federal highway funds on adoption of a drinking age of 21). But it's not clear to me that indirect regulation is permissible here. When construed as a penalty against debt collectors for litigating in state court in a way that violates federal policy, § 1692i may or may not be a valid exercise of Congress's power under the Commerce Clause. But even an affirmative answer to that question "does not conclusively resolve the constitutionality of the [statute]"; the federalism question under the Tenth Amendment

remains. *Reno v. Condon,* 528 U.S. 141, 149, 120 S.Ct. 666, 145 L.Ed.2d 587 (2000) (holding that a law permissible under the Commerce Clause may still be unconstitutional under the Tenth Amendment). And we know that private parties, not just the States, may bring Tenth Amendment challenges. *See Bond v. United States,* —— U.S. ——, 131 S.Ct. 2355, 2363–64, 180 L.Ed.2d 269 (2011).

At a minimum § 1692i must be interpreted with the limits on Congress's power in mind. This requires, as Judge Flaum suggests, sensitivity to the structure of each State's court system and the particular rules that govern its judicial subdivisions.

Returning to the interpretive problem at hand, to avoid liability under the FDCPA for violation of § 1692i, a debt collector must file suit in the "judicial district" in which the consumer resides or contracted the debt. As applied to debt-collection actions in state courts, the phrase "judicial district" is ambiguous because the States structure their court systems in a variety of ways. They may not use the term "district" to describe their judicial subdivisions, or they may use the term in a way that is not relevant to determining compliance with § 1692i.

I agree with Judges Hamilton and Posner that the *Black's* definition of "judicial district"—an interpretive tool prominently featured in *Newsom*—doesn't help resolve the ambiguity. When the FDCPA was adopted, *Black's* defined the term by reference to the territorial boundaries of the court's authority and the presence of a court of general subject-matter

jurisdiction. Judges Hamilton and Posner explain at length why this definition is not useful. I concur and have nothing to add to this discussion.

I agree as well that state venue rules play an important role in determining the appropriate "judicial district" under § 1692i in debt-collection actions filed in state court. So too does the structure of the State's court system. Deciding how far to drill down into the State's judicial hierarchy to find the relevant "judicial district" for purposes of § 1692i will depend in large part on how the State structures its court system for jurisdiction and venue over this kind of litigation.

Section 1692i is obviously aimed at promoting a venue convenient to the consumer debtor. In light of this manifest purpose, and in deference to the prerogatives of the States to set their own procedural rules, I agree that the phrase "judicial district or similar legal entity" is best understood to mean the judicial subdivision, defined by state law, that is relevant to determining venue in the court system in which the case is filed.[5] *See* Majority op. at 637, 642–43, 647–48. Judges Hamilton and Posner amply explain why this is so, and again I have nothing to add to their analysis.

This construction of § 1692i resolves the statutory ambiguity but does not remove the constitutional cloud. The constitutional question is for another day.

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[5] I've used the term "judicial subdivision," whereas my colleagues use the phrase "smallest geographic unit," but I think we mean the same thing.

One final point before I conclude. Looking to state venue rules at the "system" level is important. In deference to the State's right to set its own procedural rules for litigation in its courts, § 1692i probably can't be understood to impose liability on debt collectors for using a court of record instead of a local court (i.e., a limited jurisdiction, nonrecord municipal court) if state law makes the former available. As Judges Hamilton and Posner explain, under Indiana law the small-claims jurisdiction of the Marion County township courts is concurrent with the county's circuit and superior courts. Majority op. at 648; *see also* IND.CODE § 33–34–3–2. The township courts, however, are not courts of record. *See* IND.CODE § 33–34–1–3.

There may be practical and administrative impediments to filing a small-claims action in the Marion County circuit or superior courts, *see* Majority op. at 648–49, and debt collectors apparently prefer to use the township courts, *see id.* at 642–43, 649. But sensitivity to federalism suggests that § 1692i should not be interpreted to penalize debt collectors for suing in a court of record if state law gives them that option. In other words, the statute should not be interpreted to force debt collectors to use a local, nonrecord court system if state law permits them to sue in a court of record. That's why compliance with § 1692i is determined by reference to the judicial subdivisions that are relevant for venue purposes in the court system in which the debt collector has chosen to file.

Accordingly, with these limitations and additional observations, I agree with the court's interpretation of § 1692i and the decision to overrule *Newsom,* and I join the judgment reversing and remanding for further proceedings.

FLAUM, *Circuit Judge,* with whom KANNE, *Circuit Judge*, joins, dissenting.

The court's new rule—defining "judicial district" in § 1692i of the Fair Debt Collection Practices Act as the smallest geographic area used for determining venue wherever the debt collector files the case—may be a laudable one, as a matter of policy. However, our task is not to fine-tune statutes, but to reason through Congress's language as we find it. And while the majority's definition is arguably consistent with the general purpose behind the FDCPA, it is clearly not compelled—nor even suggested—by the statutory text.

When Congress does not define a statutory term or phrase, courts normally use its ordinary meaning. *See, e.g., Sebelius v. Cloer,* —— U.S. ——, 133 S.Ct. 1886, 1893, 185 L.Ed.2d 1003 (2013). Congress's omission of a definition for the phrase "judicial district" suggests that it meant to refer to judicial districts as they are defined by the government that established the relevant courts. For debt-collection suits, those courts are usually state courts. In this case, the state is Indiana, so our inquiry should be whether Indiana created separate judicial districts when it established the Marion County township courts. In my view, the township courts are

subdivisions of a single judicial district, which is Marion County as a whole. *Cf.* Ind.Code § 33–33–49–2 ("Marion County constitutes the nineteenth judicial circuit.").

But instead of deferring to the state's definition of its districts, the majority replaces congressional silence in § 1692i with a purposive definition of judicial district that is of the majority's own design. In doing so, the court federalizes the term "judicial district" for the purposes of the FDCPA. I decline to join this decision because I believe the court's rule seizes upon a general congressional purpose behind the FDCPA—protecting debtors from abusive collection practices—to craft a rule more exacting than Congress intended. A high-level statutory purpose is simply an insufficient justification for this stringent new rule.

To take a step back: § 1692i makes it a violation of federal law for a debt collector to file a collection action any place other than the "judicial district or similar legal entity [where the] consumer signed the contract sued upon [or where the] consumer resides." 15 U.S.C. § 1692i. This prohibition restricts the locations where a collection action can lawfully be filed, but only to the level of the "judicial district" (or similar legal entity); if a judicial district is subdivided into smaller component parts, a debt collector may still have some leeway in deciding where to file.

The majority holds that the judicial district referenced in § 1692i should be defined so as to

advance the federal goals of combating unfair and abusive collection practices. But as I read the statute, that section directs us to incorporate judicial districts as they are defined *by the states*— § 1692i is not meant to modify the concept of judicial district. The majority believes that this approach renders § 1692i meaningless, because if Congress merely wished to adopt state jurisdictional rules, there would have been no need for a federal prohibition in the FDCPA. This understanding is incorrect for two reasons.

First, under my interpretation of § 1692i, the FDCPA still imposes a harsher penalty on collectors who fail to honor existing state jurisdictional and venue rules. Congress meant to combat default-judgment-seeking debt collectors who file suit in courts "so distant or inconvenient that consumers are unable to appear." S.Rep. No. 95–382, at 5 (1977). Without the FDCPA's federal overlay, this tactic may be a low-stakes gambit—the only downside to filing in the wrong court is that the case will get moved if perchance the debtor shows up. Section 1692i thus gives state-law jurisdiction and venue rules teeth.

Second, my reading of § 1692i still places meaningful restrictions on state law, by restricting filings to the judicial district where the debtor lives or signs a contract. Even if state venue rules permitted a creditor to file in the district where the debtor works, for example, this would not be permissible under the FDCPA.

Where I part with the majority is its sole emphasis on venue rules to define the scope of a judicial district or similar legal entity. Judicial districts are products of positive law—they exist because a governmental entity established courts and then divided them into units. But states need not set the boundaries of their judicial districts by their venue rules alone. It is perfectly appropriate for a state to choose to consider other factors, like geography, administrability, convenience, or subject-matter specialization—as I believe Indiana has done in Marion County. Indeed, the evidence of congressional intent regarding § 1692i suggests that Congress intended to *preserve* state law: a House Committee report indicates that the FDCPA's venue provision does "not change State or Federal law relating to venue [or] service of process." H.R.Rep. No. 95–131, at 6 (1977). But the majority's approach could force a de facto change on the states.

We simply have no basis to conclude that Congress would have thought it unfair or abusive if a debt collector files suit within the state-defined judicial district, but in a venue that is not closest to the debtor. If Congress had wanted to impose a new federal concept of a judicial district—one more exacting than the existing units created by state law—Congress would have had to do so far more clearly. *Cf. BFP v. Resolution Trust Corp.,* 511 U.S. 531, 543–45, 114 S.Ct. 1757, 128 L.Ed.2d 556 (1994) (defining a disputed term in the Bankruptcy Code in light of relevant state law and noting that Congress must be explicit if it wishes to adjust the balance of state and federal authority). Further, it makes sense

that Congress would reference the judicial districts already created by the states, as the FDCPA must be applied to all fifty of them despite their individual structural idiosyncrasies. The Federal Trade Commission's fair venue standards, cited approvingly in a Senate Committee report on the FDCPA, likewise do not define judicial district, but instead take the state's structure as a given. S.Rep. No. 95–382, at 5. In short, I see no indication that Congress would have thought "judicial district or similar legal entity" meant only "the smallest geographic area that is relevant for determining venue." Op. at 638. (Indeed, as Judge Kanne's dissent demonstrates, the peculiarity that would result from applying the majority's rule in federal debt-collection actions strongly suggests that this rule is not what Congress had in mind.)

Our decision in *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996), properly recognized that states are responsible for defining their own judicial districts. *Newsom* refers to the definition of "judicial district" found in the *Black's Law Dictionary* in effect when the FDCPA was enacted: "One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority." *Newsom,* 76 F.3d at 817.

I continue to believe that *Newsom's* virtue lies in the way it balances the protection of debtors with the realities of varied and unique state-court systems.

Newsom has us look to state law—and more specifically to court rules and administration—to discover how the state defines its judicial districts.

Judge Kanne thoroughly explains why the county, and not the township, is the proper judicial district when we focus on Indiana specifically. But I hasten to add that in many cases, the analysis under either *Newsom* or the court's new rule will be the same. For example, if an Indiana debt collector files in the superior court—a county-level trial court of general jurisdiction that is found throughout the state—the analysis is straightforward and the debt collector need only file in the proper county. The new rule is satisfied because the county is the smallest area for determining venue in the superior court. And the county is the judicial district under *Newsom* because the superior court is the court of general jurisdiction and the common division statewide. 76 F.3d at 818. Things get trickier in courts of limited jurisdiction like the township courts in this case. The difficulty arises in deciding whether these limited-jurisdiction courts are subdivisions of a larger district or freestanding judicial districts themselves. Limited-jurisdiction courts can be judicial districts, but need not be in all cases. *Compare Newsom,* 76 F.3d at 819 (limited-jurisdiction municipal-department districts were not separate judicial districts), *with Hess v. Cohen & Slamowitz,* 637 F.3d 117, 119 (2d Cir.2011) (Syracuse city courts were separate judicial districts). For these limited-jurisdiction courts, *Newsom* asks how the courts function and considers territorial restrictions on the filing of suits. 76 F.3d at 817–19. This inquiry requires us to consider

whether an action has been filed in the proper judicial district as defined by the state—which is quite likely what Congress had in mind.

The majority opinion deconstructs the historical *bona fides* behind the *Black's Law* definition of judicial district and concludes that there is no common-law definition of the phrase. But I do not find this analysis particularly illuminating. In *Newsom,* we turned to *Black's* in part because its definition took a commonsense tack to defining a judicial district. What is important about *Newsom's* definition is that it gives courts valuable guidance while also providing leeway to decide what states consider to be their own judicial districts.

I close by noting that I believe *Newsom* is consistent with the Second Circuit's decision in *Hess,* 637 F.3d 117—more so, in fact, than the court's rule. Like *Newsom, Hess* directs courts to look at the specifics of state law to define judicial districts. The Syracuse city courts at issue in that case had no authority to hear a case if the resident lived outside of Syracuse or the adjoining towns. If a defendant from outside this zone showed up to court and objected, the court did not transfer a case, but dismissed it, because the filing was improper under state law. *Id.* at 121–23. Therefore, the *Hess* court concluded that the city court was a freestanding judicial district under New York law. *Newsom* similarly looked to state law. But in contrast to the city court in *Hess,* the courts at issue in *Newsom* were not judicial districts, in part because the filing

of the debt collection suits was not improper under state law.

The court's new rule, contrary to *Hess* and *Newsom,* does not give appropriate deference to the way a state chooses to structure its own court system. For this reason, I would uphold *Newsom,* and I respectfully dissent from the majority's decision to overrule it.

KANNE, *Circuit Judge*, dissenting**.**

This is a simple statutory interpretation case. The parties ask us to determine the meaning of the words "judicial district or similar legal entity" as they appear in the venue provision of the Fair Debt Collection Practices Act, and the majority is happy to oblige. But there is a problem: This court has already answered that question. In *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996), this court found that the operative phrase was unambiguous and susceptible of a plain-meaning interpretation. We relied on the edition of Black's Law Dictionary current when the FDCPA was passed to define a judicial district or similar legal entity as:

> One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; or

> the district may include two or more counties, having separate and independent county courts, but in that case they are presided over by the same judge.

Newsom, 76 F.3d at 817 (quoting Black's Law Dictionary 848 (6th ed.1990) (and referencing earlier editions)). Since then, the only other circuit court to directly consider the issue adopted the exact same definition. *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117, 121 (2d Cir.2011).

We have said, too many times to count, that we require a "compelling" reason to overturn circuit precedent, as the principle of *stare decisis* requires that we give considerable weight to prior decisions of this court. *United States v. Lara–Unzueta,* 735 F.3d 954, 961 (7th Cir.2013). The presumption in favor of existing law is overcome only in the most exceptional of circumstances, such as when our decision is overruled or undermined by the decisions of a higher court or by legislative action. *Id.* We might also consider whether the existing rule is simply unworkable as a practical matter, whether surrounding principles of law have developed so far as to leave an old rule behind, or whether facts have changed so much as to rob the rule of its general applicability or justification. *Planned Parenthood of Se. Pa. v. Casey,* 505 U.S. 833, 854–55, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992). What we will certainly not do is overturn a previous decision simply because a majority of the members of this court believe it was incorrect:

> [I]f the fact that a court considers one of its previous decisions to be incorrect is a sufficient ground for overruling it, then *stare decisis* is out the window, because no doctrine of deference to precedent is needed to induce a court to follow the precedents that it agrees with; a court has no incentive to overrule them even if it is completely free to do so. The doctrine of *stare decisis* imparts authority to a decision, depending on the court that rendered it, merely by virtue of the authority of the rendering court and independently of the quality of its reasoning. The essence of *stare decisis* is that the mere existence of certain decisions becomes a reason for adhering to their holdings in subsequent cases.

Tate v. Showboat Marina Casino P'ship, 431 F.3d 580, 582–83 (7th Cir.2005) (citation and internal quotation marks omitted).

Or so I thought. Despite the fact that the principle of *stare decisis* carries "special force" in the statutory interpretation context, *John R. Sand & Gravel Co. v. United States,* 552 U.S. 130, 139, 128 S.Ct. 750, 169 L.Ed.2d 591 (2008)—so much force, in fact, that asking us to overrule a previous statutory interpretation decision can result in the summary disposition of your appeal, *see, e.g., United States v. Howell,* 557 Fed.Appx. 579 (7th Cir.2014)—I cannot

find any remotely valid justification for overruling *Newsom* in the entirety of the majority's opinion. It makes no difference that *Newsom* was a panel decision. Nearly all of the decisions that issue from this court are panel decisions, and the principles of *stare decisis* still apply. The fact that we are now sitting *en Banc* means that we have the *authority* to disregard a prior decision, but it does not mean that we can or should do so without a valid reason.[1]

What reason is given? The majority opinion complains that the *Newsom*/Black's definition is too vague, and that the sources cited by Black's are underwhelming. Those are not sufficient reasons to abandon existing law; they are just another way of saying the majority believes that *Newsom* was decided incorrectly. After casting that decision aside, the majority then moves immediately to the policy objectives underlying the FDCPA, and summarily redefines the phrase "judicial district or similar legal entity" to mean "the smallest geographic area that is relevant for determining venue in the court system in which the case is filed." Even if I leave the *stare decisis* issue behind, that definition is wrong because the process that led to it disregarded the established canons of statutory construction, and it is wrong because it cannot be usefully or consistently applied to the court systems in our jurisdiction. I write

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[1] By way of comparison, the United States Supreme Court sits "*en Banc*" in every case that it hears, and it has the authority to overturn its own prior decisions in every case that it hears. And yet Supreme Court opinions are littered with references to the doctrine of *stare decisis*.

separately to address each of those points, and I ultimately join the dissent of Judge Flaum.

I.

I will begin by noting the most obvious flaws in the majority's process. As I have mentioned, the core of this case is a simple question of statutory construction. The first canon of statutory construction is that we begin with the text itself. *Connecticut Nat'l Bank v. Germain,* 503 U.S. 249, 253–54, 112 S.Ct. 1146, 117 L.Ed.2d 391 (1992). Absent ambiguity, the first canon is also the last: "judicial inquiry is complete." *Id.* (quoting *Rubin v. United States,* 449 U.S. 424, 430, 101 S.Ct. 698, 66 L.Ed.2d 633 (1981)). The majority opinion summarily concludes that the words "judicial district or similar legal entity," at least in this context, are ambiguous, and so turns to legislative intent to discern the meaning of the statute. Like Judge Flaum, I believe the majority is mistaken. The operative phrase is unambiguous and susceptible of a common understanding, and there is therefore no need to turn to policy concerns or legislative history to decide this case. By shortchanging the first step in the process, the majority has engaged in disordered statutory interpretation.

First, not only was the original panel's reference to Black's Law Dictionary consistent with existing law as set out in *Newsom,* it was consistent with usual interpretive practice. "Without a statutory definition, we construe [a] term 'in accordance with

its ordinary or natural meaning,' a meaning which may be supplied by a dictionary." *Carmichael v. The Payment Ctr., Inc.,* 336 F.3d 636, 640 (7th Cir.2003) (quoting *FDIC v. Meyer,* 510 U.S. 471, 476, 114 S.Ct. 996, 127 L.Ed.2d 308 (1994)). I agree with the majority that there are dangers to blind reliance on dictionary definitions, but as Judge Flaum rightly notes, this particular dictionary provided a definition that comports with common sense. I do not grasp the value of the majority's search for a definitive source underlying the Black's definition. Dictionaries—even legal ones—are descriptive, not prescriptive; their goal is to define words according to their common usage. That is why the meanings of words often change from one edition to another, and why some new words enter a dictionary and some old words leave. Does the majority mean to suggest that Black's was *wrong* about the common usage of the term "judicial district" at the time the statute was enacted? If so, on what basis? If not, what is the point?

Second, the Black's definition is not "vague" at all, at least not in the context of this case. Black's tells us to look for "one of the circuits or precincts into which a state is commonly divided for judicial purposes." In Indiana, that is easy to do. The "circuit or precinct" into which Indiana is "commonly divided for judicial purposes" is the "judicial circuit."[2] *See* Ind. Const.

[2] The General Assembly has authorized the Office of Judicial Administration to break the state up into a number of larger "judicial districts," Ind.Code § 33–24–6–10, but those districts exist for administrative, not judicial, purposes.

Article 7, Sections 1, 7– 8 (empowering the General Assembly to divide the state into judicial circuits); Ind.Code Title 33, Article 28 (establishing the powers and duties of the circuit courts, generally); *see also* 7 Ind. Law Encyc. Courts § 17. Indiana has 92 counties, and all but two of them (the smallest two, Ohio and Dearborn) comprise their own judicial circuit and have their own circuit court. *See* Ind.Code Title 33, Article 33, Chapters 1–92 (establishing and numbering a judicial circuit and circuit court for each Indiana county). For most counties, the Indiana legislature has created "superior courts" to share the load with the circuit court, or to supplant it as the primary trial court within that judicial circuit. *See, e.g.,* Ind.Code § 33–33–49–6 (Marion County). With respect to at least one county, the legislature has taken a different approach, and created additional circuit judgeships. *See, e.g.,* Ind.Code 33–33–53–1–8 (Monroe County). Some counties have been legislatively authorized to operate separate small claims mechanisms within the circuit court. *See* Ind.Code § 33–28–3–1–10. One county, Saint Joseph, has a separate probate court created by the legislature. Ind.Code § 33–31–1–1. In short, county-by-county structures vary a great deal, but all of those structures exist within a judicial circuit. The judicial circuit is the level at which uniformity can be found; the *common* division for judicial purposes.

It is just as easy to see that the Marion County Small Claims Courts do not qualify. The Marion County Small Claims Courts are unique in the State of Indiana in terms of their structure and function. And Marion County, obviously, falls within the

Indiana Judicial System. The Marion County Small Claims Courts are therefore not a common division in the state court system in which they exist. They are the exact opposite.

There is nothing vague about any of this. And yet the majority tosses the *Newsom*/Black's definition aside, claiming it is too vague and unfounded to be useful. Next, it immediately turns to the policy underlying the FDCPA to craft an entirely new definition with no source in *any* statute, case law, usage guide, dictionary, or any other conceivable source of authority on the *meaning* of the words, rather than the intent behind the words, in this statute. That is not how statutory construction works.

For one thing, casting aside the *Newsom*/Black's definition—if I were willing to go that far with the majority—does not mean there can be no "plain meaning." It is not comprehensible to me to suggest that we have no idea what Congress means when it says the words "judicial district." We know exactly what a "judicial district," in the common parlance of the law, is. Our job is to hear appeals from seven of them. If we read the words "judicial district" to refer to judicial districts as they exist in the federal court system and as they are so frequently referenced throughout the United States Code,[3] the

[3] It is true that the vast majority of collection actions take place in state courts, but we would do well to remember that debt collection actions can and do take place in federal court, as well. The FDCPA by its terms applies to those actions, too, and Congress knew that when it passed the law. Moreover, the

commonsense approach would be to understand the words that follow, "or similar legal entity," to refer to the analogous level of division in a given state court system, however titled.[4]

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impact of the FDCPA on federal court debt collection actions is an issue of growing concern. Student debt has surpassed all but mortgage debt as the largest bit of baggage in our nation's consumer inventory, and we are witnessing an uptick in federal court collection actions as the default rate on federal student loans increases. *See* Halah Touryalai, *$1 Trillion Student Loan Problem Keeps Getting Worse,* Forbes (Feb. 21, 2014), http:// www. forbes. com/ sites/ halahtouryalai/ 2014/ 02/ 21/ 1- trillion- student- loan- problem- keeps- getting- worse/; Scott Travis, *Feds crack down on South Florida student loan defaulters,* Sun–Sentinel (May 12, 2012), http:// articles. sun- sentinel. com/ 2012- 05- 12/ news/ fl- student- loan- lawsuits- 20120510_ 1_ student- loan- default- rate- federal- stafford- loans. Suits founded on debts owed to the federal government may be filed in federal court regardless of the amount-in-controversy. These suits are exempt from FDCPA coverage when initiated by the federal government itself, 15 U.S.C. § 1692a(6)(C), but defaulted loans are often pursued by private contractors to the Department of Education, for whom the rules are less clear. *See* Federal Student Aid Office of the Department of Education (June 24, 2014), https:// studentaid. ed. gov/ about/ data- center/ business- info/ contracts/ collection- agency. I mention all of this because it would be short-sighted of us to forget that the rule we espouse in this case applies in every court system within our geographical jurisdiction, not just Indiana's. That includes the federal courts, and what may soon become a litigation area of substantial public concern. As I explain hereafter, any attempted application of the rule proposed by the majority to the federal court system substantially undermines the integrity of their result.

[4] The relevant question, at that point, is how do we identify an appropriate comparator in a state court system? I would begin by noting the salient characteristics of our model: a federal judicial district, something we can all agree *should* fall within any sensible interpretation of the words "judicial district or

But the majority opinion never stops to consider the possibility that the words "judicial district" may just not be that great a puzzle. Why? Because "terms that seem plain and easy to apply to some situations can become ambiguous in other situations." Op. at 639. That is an inadequate justification for a finding of ambiguity. "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Vulcan Const. Materials, LP v. Fed. Mine Safety and Health Review Comm'n,* 700 F.3d 297 (7th Cir.2012) (citation omitted). Noticeably absent from that list is reference to the unusual facts of any particular case. There are good reasons for that. A law that is subject to change whenever hard facts come along is no law at all. Hard facts mean hard work is before us, not that the law is wrong.

Moreover, even if the statute were ambiguous, I do not see how the majority's chosen definition falls within the range of that ambiguity. Statutory ambiguity presents us with an opportunity to choose from among equally legally justified options. It is not

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similar legal entity." I will not generate an exhaustive list here, but it would likely turn out to look a great deal like the *Newsom*/Black's definition: lowest-level common division for judicial purposes in the system in which it exists, etc. Next, I would search for a level of division in Indiana's court system that is analogous in most respects. It would again be easy to see that the constitutionally authorized judicial circuits meet nearly every criteria we could put forward; the Marion County Small Claims Courts would meet none.

a creative license. I do not see the majority presenting competing common understandings of what a "judicial district or similar legal entity" could be. I see the majority replacing the words "judicial district or similar legal entity" with an entirely new phrase, "smallest geographic area that is relevant for determining venue in the court system in which the case is filed," because those new words produce the result most consistent with the purpose of the statute in this particular case. That may be an equitable outcome, but it is legally improper: "Ambiguity sometimes justifies resort to legislative history, but it is used to decipher the ambiguous language, not to replace it." *Peterson v. Somers Dublin Ltd.,* 729 F.3d 741, 749 (7th Cir.2013). The majority's reliance on legislative intent is inappropriate here, and it leads to some confounding results.

II.

I have made my concern with the majority's analytical process clear: I believe the majority too casually tosses aside principles of *stare decisis* and the canons of statutory construction to arrive at a result consistent with its understanding of the policy aims undergirding the FDCPA. Now I will briefly address why I believe the majority's result is just plain wrong. I believe it is wrong because it leads to bizarre and inconsistent results irreconcilable with the statutory text *and* the intent behind it, and because the outcome reached by the majority defeats its own stated purpose.

First, the majority's definition means that many federal judicial districts are *not* "judicial districts," but *divisions* of those federal judicial districts *are*. Many federal judicial districts are broken up into smaller geographical units: divisions. A quick internet search confirms that at least some of those judicial districts' local rules require civil actions to be filed in the *division* of the district court in which proper venue lies. *See, e.g.,* Northern and Southern Districts of Iowa Local Rule 3(b); District of Montana Local Rule 3.2(b); Western District of Virginia Local Rule 2(b). It cannot be meaningfully argued that the divisions are not "geographic areas" in the first place; their boundaries are tied to county lines.

In these judicial districts, the divisions are therefore the "smallest geographic area that is relevant for determining venue in the court system in which the case is filed." The only possible way the majority could expand its definition of a "judicial district" to include the districts themselves is to resort to "details of court administration"—same judges, same administrative staff, same court seal, etc. But even where that works (and it will not work everywhere), it is exactly the approach the majority ostensibly eschews in abandoning *Newsom*. Op. at 638. That is a problem.

Second, the majority's definition leads to inconsistent results within the same judicial systems. Putting aside the problem that some federal districts are still "districts" while others are not, one need only look to Indiana to see how. Marion County is the only county in Indiana for which the small

claims courts will constitute the relevant judicial district. The majority's definition of the operative phrase therefore means that a "judicial district or similar legal entity" in Marion County is something different than a "judicial district or similar legal entity" in Shelby County, Saint Joseph County, Allen County, or Jasper County. I can conceive of no possible justification for this outcome. How can we define a "judicial district"—something which by the nature of the words themselves *must* be a division of some larger entity—in a way that is not consistent with respect to that larger entity?

I understand that the majority outcome is a boon to Marion County residents who have trouble getting from one township to another to defend against a case. Perhaps this is especially true for the typical small claims defendant, who is likely a person of limited means. But at least public transportation *exists* in Marion County in a meaningful way. There are poor people in rural Indiana, too, and their county seats are often just as far away from them, if not farther, than the distance between the two Marion County townships at issue in this case[5] The majority's new definition does nothing for them, and the result has an air of arbitrariness about it. Even if I ride along with the majority to the point of considering legislative intent, am I to believe Congress intended the FDCPA to provide greater protection to debtors in Marion County than in the

[5] Marion County encompasses 396 square miles and is nowhere near the largest county in the state. Allen County, home to Fort Wayne, Indiana's second most populous city, covers 657 square miles. Jasper County, home to the undersigned, covers 560.

rest of the State of Indiana? I cannot accept as plausible any reading of the words "judicial district" that varies so wildly from one place within the same court system to another.

That leads me to my greatest concern. The majority opinion is sprinkled throughout with language suggesting that its goal is to establish a rule honoring Congress's intent to impose consistent *federal* limitations on debt collectors' choice of venue when filing in *state* courts. *See, e.g.,* Op. at 640 ("The presence of the venue provision in the Act shows congressional dissatisfaction with allowing state law to determine where suits to collect consumer debts can be filed.").[6] These remarks are often presented as a foil to Judge Flaum's preferred approach: defining a "judicial district," with respect to a state court system, as that unit into which the state consistently divides itself. But if enacting a federal rule above the reach of meddling, incompetent, or insufficiently protectionist state governments was the majority's intent, it has failed. The majority rule depends entirely on state venue rules, which the state courts or legislatures are free to change *on a whim*. Ultimately, therefore, the majority reaches a result that frustrates its own purpose; this rule is no "rule" at all.

Finally, none of this is meant to suggest that forum-shopping by debt collectors in Marion County

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[6] I share some of Judge Sykes's concerns about the propriety of that consideration in light of general principles of federalism, although I do not understand that issue to be directly before us.

is not a problem, or that nothing should be done to fix it. It is a problem, and Indiana is already taking steps to fix it. But the majority disregarded the principle of *stare decisis* without even paying lip service to any of the established justifications for doing so, then proceeded to shortchange the first step of the statutory interpretation process in its effort to achieve a result consistent with its understanding of the policy aims of the FDCPA. In so doing, the majority reached a result which defeats its own purpose and falls apart with any attempt at general application to the various court systems within our territorial jurisdiction. I cannot sign on to that. While I am of the opinion that the judicial circuits themselves, and not any specific court within them, are the relevant "judicial districts" in Indiana, I find Judge Flaum's reasoned approach and his adherence to our *Newsom* decision much more persuasive than that put forward by the majority. I therefore join in his dissent.

C.A.7 (Ind.),2014.
Suesz v. Med–1 Solutions, LLC
757 F.3d 636

APPENDIX B: OPINION OF THE COURT OF APPEALS

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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No. 13-1821

MARK SUESZ, *Plaintiff-Appellant*,

v.

MED-1 SOLUTIONS, LLC, *Defendant-Appellee*.

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Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division
No. 1:12-cv-1517-WTL-MJD – **William T. Lawrence**, *Judge*.

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ARGUED OCT. 3, 2013 – DECIDED OCT. 31, 2013

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BEFORE POSNER, FLAUM, and, WILLIAMS, *Circuit Judges*.

FLAUM, *Circuit Judge*.

Defendant-appellee Med–1 Solutions bought the medical debt of Mark Suesz and filed a collection action in the Marion County Small Claims Court for Pike Township. Med–1 obtained a favorable judgment, but Suesz then filed suit in federal district court seeking damages under the Fair Debt Collection Practices Act. The FDCPA contains a venue provision requiring debt collectors to bring suit in the "judicial district" where the contract was signed or where the consumer resides. Suesz asserts that Med–1 violated this provision because he lives in a neighboring county and the debt was incurred in a township other than Pike. The district court dismissed Suesz's claim after finding Marion County Small Claims Courts were not judicial districts for the purposes of the FDCPA. We agree, and affirm the dismissal of Suesz's complaint.

I. Background

Med–1 is in the business of buying delinquent debts. It purchased Suesz's debt from Community Hospital North in Indianapolis. In March 2012 it filed a collection suit in the Pike Township small claims court, located in Marion County.[1] Med–1 prevailed in the small claims action, and received a judgment against Suesz for $1,280.

Suesz lives one county over from Marion. Though he incurred the debt in Marion County, he did so in

[1] Marion County is coterminous with the City of Indianapolis and is governed by a City–County Council.

Lawrence Township, where Community North Hospital sits, and not in Pike Township. Suesz says that it is Med–1's practice to file claims in Pike Township regardless of the origins of the dispute.[2]

Suesz filed a putative class action[3] alleging that Med–1's suit in Pike Township violated the FDCPA's venue provision. The district court granted Med–1's motion to dismiss. It reasoned that the Pike Township small claims court did not constitute an FDCPA judicial district, but was instead an administrative subset of the Marion County Circuit Court. The court was guided by our decision in *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996). It noted that the township courts were not courts of record and did not use juries, that litigants could file suit in any of the township courts in the county, that the Marion County Circuit Court judge could transfer cases between township courts for administrative convenience, and that the circuit court judge aided the township courts, including by establishing uniform township court rules. Suesz now appeals the dismissal of his complaint.

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[2] Suesz posits that this practice is an attempt at forum shopping. He cites a study on the township courts commissioned by the Indiana Supreme Court which came to a similar conclusion. *See* John G. Baker & Betty Barteau, Marion County Small Claims Courts Task Force, Report on the Marion County Small Claims Courts (2012), *available at* www. in. gov/ judiciary/ 3844. htm.

[3] He moved for class certification, but the parties agreed to defer the issue. The district court's ruling was explicitly limited to Suesz individually.

II. Discussion

We review the district court's dismissal of a complaint de novo. *Tamayo v. Blagojevich,* 526 F.3d 1074, 1081 (7th Cir.2008).

A. The policy behind § 1692i of the FDCPA

Congress enacted the FDCPA to curb abusive practices by debt collectors, and § 1692i of the law punishes the "unfair practice" of filing against consumers in "distant or inconvenient forums that can make it difficult for debtors to appear." *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117, 120 (2d Cir.2011) (quoting S.Rep. No. 95382, at 5 (1977), *reprinted in* 1977 U.S.C.C.A.N. 1695, 1699). To that end, debt collectors are permitted to bring collection actions "only in the judicial district or similar legal entity in which such consumer signed the contract sued upon; or in which such consumer resides at the commencement" of the action. 15 U.S.C. § 1692i.

Congress did not specially define "judicial district" in the statute, but that does not make the phrase vague. We simply construe it according to its common meaning. *Newsom,* 76 F.3d at 817; *see also Whitfield v. United States,* 543 U.S. 209, 213, 125 S.Ct. 687, 160 L.Ed.2d 611 (2005) (noting the "settled principle of statutory construction that, absent contrary indications, Congress intends to adopt the common law definition of statutory terms"). Thus, in

Newsom, we first turned to the definition of "judicial district" found in Black's Law Dictionary at the time the FDCPA was enacted. *Id.* at 817.[4] As we shall fully detail below, that definition framed our § 1692i analysis, and required a detailed look at the details of the Cook County Circuit Court and Illinois's broader judicial system.

We took this approach because debt collectors almost always bring collection actions in state courts, and the specifics of state judicial structures differ. Section 1692i's check on forum shopping thus requires us to consider these structures as a whole. *See, e.g., Newsom,* 76 F.3d at 817–18. The dissent would impose a one-factor test asking only which court with original jurisdiction over the collection action is closest to the debtor.[5] But if Congress had

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[4] The new edition of Black's omits the definition for "judicial district" for reasons of which we are unaware. This is immaterial. The relevant question is how the term was defined at the FDCPA's enactment.

[5] The dissent also attempts to discredit our systematic approach with an intended *reductio ad absurdum*. It posits that, in the unlikely event that a federal court had jurisdiction over a collection action, and in a state with only one federal district (Montana, in the dissent's example), a debt collector could opt for the most inconvenient forum for the debtor possible (the long road from Missoula to Billings). Op. at 693. This is an open question that would depend on the particulars of the District of Montana. But if, after conducting the analysis, it seemed that the District of Montana *did* function as a single judicial district, the dissent would be correct that a debt collector could file in either location. However, that result would be faithful to the text of the § 1692 that Congress did enact. This is not

intended this, it could easily have enacted such a provision. We continue to believe the FDCPA requires a more searching analysis of the structure and function of the state's judicial organization. Although Congress sought to aid unsophisticated parties who are the target of unfair debt collection methods, it was aware that it was imposing the FDCPA on our patchwork federal framework. Section 1692i may have been the legislature's attempt to balance its desire to aid debtors against the realities of our varied state court systems.

At any rate, we see no reason to depart from our existing approach in § 1692i cases. That requires us to undertake a detailed examination of the structure of Indiana's judiciary before we can determine what units are FDCPA judicial districts.

B. The Indiana court system

Indiana has constitutionally established its courts of general and original jurisdiction: the circuit courts. Ind. Const. art. 7. Layered on top is a patchwork of statutorily created courts. These include superior courts, city and town courts, and the Marion County Small Claims Courts (what we have referred to as the "township courts").

With the exception of one circuit, the circuit courts are divided along county lines. Ind.Code § 33–28–1–

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incongruous, considering Congress's challenge in enacting a venue provision that applies from Anchorage to Atlanta.

2(a)(1)–(2). Each county contains only one circuit court. For this reason the General Assembly created superior courts as trial-level courts to lessen the circuit court's caseload. Ind.Code § 33–29–1–1.5. The number and functioning of superior courts and their relationship with the circuit court varies from county to county. But cases can typically be transferred between the two courts as necessary and agreed upon by the various judges. Ind.Code § 33–29–1–9. Many counties, especially the smaller ones, feature a so-called "standard superior court" as provided for in Indiana Code § 33–29–1–1. Standard superior courts contain a special small claims docket for civil actions where the amount or value of the property sought is no more than $6,000. Ind.Code § 33–29–2–4. Both the superior courts and the circuit court may exercise appellate de novo review over the decisions of town or city courts within the circuit or, in the case of Marion County, the township courts. Ind.Code § 33–34–3–15.

Another species of tribunal in Indiana is the city and town courts. Cities and towns are authorized to establish these courts by ordinance. Ind.Code § 33–35–1–1. City courts are helmed by a judge who is tasked with adopting rules for the court's functioning, and enjoys all the powers incident to a court of record (though they are not courts of record themselves). Ind.Code § 33–35–2–1. City courts enjoy jurisdiction over all city ordinance violations, all misdemeanors, and some small claims. Ind.Code § 33–35–2–4, 2–5. Once a case is filed in city court, the venue cannot be changed. Ind.Code § 33–35–5–2. Judges serve as triers of fact until a jury demand is

made, in which time six jurors from the community decide the case. Ind.Code § 33–35–5–5.

Finally, there are the township courts in Marion County. These courts are unique in the state. They are established by statute but supported by the nine townships, which are responsible for providing facilities and paying the salaries of officials. Ind.Code § 33–34–6–1. All fees generated by these courts are returned to the township coffers. Like the small claims dockets of the superior courts, the township courts have original and concurrent jurisdiction over civil actions seeking up to $6,000, though they are limited in subject matter jurisdiction to contract and tort cases. Ind.Code § 33–34–3–2. The Marion County Superior Court does not have a devoted small claims docket (as many of its analogs do). Such a docket would largely mirror the jurisdiction of the township courts if it existed. *Cf.* John G. Baker & Betty Barteau, Marion County Small Claims Courts Task Force, Report on the Marion County Small Claims Courts 7 (2012), *available at* www. in. gov/ judiciary/ 3844. htm (noting that "[i]n Indiana's other counties [that is, other than Marion], small claims are heard by ... superior courts as part of a small claims/minor offenses docket...."). The township courts have countywide jurisdiction, and litigants are free to file small claims cases in any of the townships in the county. There is therefore no bar to the courts' hearing the cases where they are brought—but if the defendant objects to venue, and the court finds that "required venue" lies elsewhere, it must transfer the case to another township. Ind.Code § 33–34–3–1(a). For debts, like the one in this case, the preferred

venue is the place where the contract was signed, followed in priority by the township where the transactions giving rise to the claim took place, or where the defendants reside or do business. Ind.Code § 33–34–3–1(b).

The township courts are also distinct in their functioning. They are not courts of record and claims may not be tried to a jury—if a defendant seeks a jury trial the case is transferred to the superior court. Ind.Code § 33–34–1–3, 3–11. Court rules are created by the circuit court judge and uniform across the nine courts. Ind.Code § 33–34–3–6. The circuit judge also has the discretion to transfer cases from one township to another. Ind.Code § 33–34–5–1. Finally, as mentioned above, the circuit and superior courts may both exercise de novo review over the decisions of the township courts.

C. The township courts are not FDCPA judicial districts

The district court focused on our decision in *Newsom,* 76 F.3d 813, our only previous foray into § 1692i. The case concerned a debt collection action filed in the first district of the municipal department in downtown Chicago against a resident of suburban Schaumburg. *Id.* at 815–16. The debtor filed suit in the Northern District of Illinois under the FDCPA, alleging that the debt collector should have instead filed the debt collection action in the third district of the municipal department, where she lived. *Id.* at

816. The district court dismissed the case and we affirmed. *Id.*

As noted above, we defined "judicial district" by using Black's Law Dictionary. *Id.* at 817. The term was there defined: "One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority...." *Id.* (quoting Black's Law Dictionary 848 (6th ed.1990)).

Using this definition for our analysis, we concluded that the municipal department districts were not FDCPA judicial districts. The key factor was the lack of territorially-based limits on the courts' authority. The municipal department had limited jurisdiction, and heard only smaller claims. For cases eligible to be heard in the forum, an order of the circuit court required actions to be filed in the district of the debtor's residence or where the transaction arose. *Newsom,* 76 F.3d at 818. Yet we did not consider this filing limitation to be a venue requirement because a separate order permitted cases to be heard anywhere in the county as necessary, and to be freely transferred for administrative convenience. *Id.* at 819. Additionally, filing a case in the wrong district in violation of the rules did not deprive the court of jurisdiction or lead to dismissal—it led only to a transfer to the correct location. *Id.* In sum, the "boundaries between the Municipal Department administrative subdistricts [did] not set any territorial limits to the subdistrict's

authority within the Circuit[,]" and the districts were therefore units of administrative convenience for the Circuit Court of Cook County. *Id.*

The only other court of appeals to give § 1692i a thorough treatment is the Second Circuit in its 2011 case, *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117 (2d Cir.2011). The court found the Syracuse City Court to be a judicial district for FDCPA purposes. The New York statute governing the city courts limited their authority to city residents or residents of contiguous towns. *Id.* at 122. Defendants not subject to city court jurisdiction were free to move for dismissal. *Id.* The court found that where a court system "is governed by laws that limit the territorial extent of those courts based on ... a defendant's contacts with the forum[,]" those "laws delimit the 'judicial district' " for purposes of the FDCPA. *Id.* at 123.

The Second Circuit discussed our opinion in *Newsom* and found our approaches consistent. *Id.* at 126–27. We agree. The authority of the city courts in New York was circumscribed by the statutorily required nexus between the defendant and the forum's territorial boundaries. *Id.* at 127. It was not so with the municipal district divisions we confronted in *Newsom,* where the venue rules did not subject misfiled suits to dismissal. The *Hess* city courts also functioned more as independent judicial districts on the ground: whereas Cook County municipal department suits could be freely transferred between different courtrooms for administrative convenience,

this was not the case with New York's city courts and their county counterparts.

Like our decision in *Newsom,* the Second Circuit's analysis highlights the importance of looking to the details of the state court organizational apparatus in making the FDCPA judicial district determination. Our nod in *Newsom* to the old Black's Law Dictionary definition of judicial district gives us a starting point in our analysis, though it may not take us all the way home. The first half of the definition, "[o]ne of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general original jurisdiction being usually provided in each such districts" is unlikely to do much independent work, other than to definitively identify the state's primary judicial division—typically at the county level—as an FDCPA judicial district. This is not controversial, and litigants are unlikely to assert a right under the FDCPA to file debt collection actions in neighboring counties.

But a court need not have general jurisdiction to be considered an FDCPA judicial district. Though its decision does not bind us, the Second Circuit found that a court of limited jurisdiction could constitute a judicial district—and our analysis in *Newsom* did not foreclose the idea. Indeed, if we thought general jurisdiction an absolute prerequisite, we could have ended our analysis of the municipal department divisions upon noting their limited jurisdiction. General jurisdiction is sufficient to make a court an FDCPA judicial district, but it is not necessary.

We can glean additional guidance from the definition's tail end, which notes that the boundaries of a judicial district typically mark "the territorial limits of its authority." This is the most salient difference between the city courts in New York and the municipal department districts in Illinois. A key indicator of judicial districts is whether there is a statutorily required nexus between the defendant's contacts with the forum and the forum's boundaries.

This definitional approach is only part of the equation, however. In *Newsom,* we paid close attention to the practical functioning of the court in question, as did the Second Circuit in *Hess.* This approach makes sense, given the language of § 1692i. Recall that the statute restricts filings to judicial districts and "similar legal entities." While the parties do not urge any independent significance of this clause, we noted in *Newsom* that it refers to entities "similar in structure and function to judicial districts." 76 F.3d at 820. Thus, a forum like the New York city courts in *Hess* that lacks one of the touchstones in the Black's definition could still be an FDCPA judicial district if it "function[s] as [a] judicial district[ ]." *Newsom,* 76 F.3d at 819.

So what are we to make of the Indiana township courts? As we suggested above, our first indicator—whether the court is one of general jurisdiction—does not take us far. The circuit courts, as the repositories of general jurisdiction, clearly qualify as FDCPA judicial districts. But this alone does not disqualify the township courts if they otherwise look like judicial districts. *Newsom* and *Hess* leave open the

possibility that courts of limited jurisdiction can properly be FDCPA judicial districts.

Still, the township courts fall short of constituting free-standing judicial districts for several reasons. First, they fall short under our definition, because the limitations on their authority are not coterminous with township boundaries. We find it especially significant that the statute permits debt collectors to file actions anywhere in the county, rather than limiting the township courts' reach to township borders. This makes the township courts similar to the municipal department districts in *Newsom* where filing outside the district did not compromise jurisdiction. 76 F.3d at 819. The statute also distinguishes the township courts from the city courts in *Hess,* where jurisdiction was more tightly circumscribed. 637 F.3d at 122–23. This filing flexibility suggests that the proper judicial district is Marion County as a whole, rather than the individual townships.

This conclusion is buttressed when we look at the way the courts actually function: the township courts in practice are a component part of the Marion County Circuit Court. Like the districts in *Newsom,* cases can be transferred between township courts at the discretion of the circuit judge. 76 F.3d at 819. The circuit judge also has other administrative authority over the township courts, including establishing uniform rules of procedure and assisting in the preparation of court records. External establishment of court rules is not unique, of course, but this practice contrasts with the Indiana city and

town courts, which are tasked with developing their own sets of rules. It is also noteworthy that the Marion County Superior Court lacks a small claims docket—which every other superior court in Indiana has. This suggests that the township courts, superior court, and circuit court are meant to function as a symbiotic whole, with the township courts obviating the need for a superior court small claims docket.[6]

Suesz argues the township courts are better analogized to the city courts in *Hess*. There, citizens not subject to the jurisdiction of the court were deemed to have waived their jurisdictional objection if they did not raise it, but if they did raise it, they were entitled to mandatory dismissal. Suesz says that the venue provisions here—which require the township court to transfer the case automatically to a preferred venue upon proper motion—are similar. We are unconvinced for two reasons. First, on a formal level, jurisdiction and venue are different creatures: the former deprives the court of its authority to decide the case at all, while the latter is concerned with the parties' convenience and evidence. Suesz's argument breaks down on the practical level as well. In *Hess,* the limitations on the place of filing were statutory—the filing of a city court action outside the geographical limits was improper, even if subject to waiver. In contrast, the filing of a debt collection action in any of Marion County's townships is not improper. In fact, it is

[6] Though the township courts are financially supported by the townships and not the county, this is not enough to overcome the other factors suggesting that they are not FDCPA judicial districts.

perfectly permissible under the text of the statute.[7] Even if venue can later be changed upon motion, this does not make the township courts FDCPA judicial districts.

One final argument advanced by Suesz bears highlighting. At oral argument, counsel suggested a distinction between *Hess* and *Newsom* based on the source of the court's creation. The courts in *Hess* were created by statute, while the districts in *Newsom* were the product of an administrative order—which presumably means that the court would be free to alter or abolish them as it saw fit. The township courts, Suesz argues, are more like the city courts in *Hess* because they too are creatures of statute. We agree that looking to the source of court creation is appealing as a convenient way to identify FDCPA judicial districts. But here the argument proves too much. The Indiana General Assembly established not just township and city courts by statute, but also the superior courts. It would be an absurd result if the superior court were considered a separate judicial district from the circuit court, as the superior courts are the handmaiden to the circuit court, together creating the trial court of general jurisdiction in the counties. We thus decline Suesz's invitation to look to the origins of the court as a dispositive factor in our FDCPA analysis.

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[7] It is consistent with our analysis that the territorial limits on Syracuse city court jurisdiction in *Hess* included both the town and towns contiguous. The statute still required a territorial nexus between the defendant and the forum. In other words, there was no reason that the FDCPA judicial district could not be the town and surrounding ones, not just the town itself.

III. Conclusion

As we have seen, the township courts are not FDCPA judicial districts, either in form or in function. We therefore AFFIRM the district court's dismissal of Suesz's complaint.

POSNER, *Circuit Judge*, dissenting.

The panel majority, in affirming the dismissal of this suit, understandably relies heavily on *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996). But *Newsom* is unsound and should be overruled. It interpreted the same provision of the Fair Debt Collection Practices Act that we're asked to interpret in this case, but, like this case, it did so without reference to the Act's purpose. It treated statutory interpretation as a purely semantic activity—as it can be when the statutory language is extremely clear; but when it is not, the purpose of the statute can't be ignored, as it was in *Newsom* and is again today. Echoing *Newsom,* the opinion in the present case says that it "simply construe[s the term 'judicial district'] according to its common meaning," consistent with the principle that "Congress intends to adopt the common law definition of statutory terms." But there is no "common meaning" of judicial district, let alone a "common law meaning." And why would Congress want to give a *statutory* term a *common law* meaning, anyway?

Purposive interpretation must not be confused with the interpretive approach championed by the Supreme Court in the 1960s, as in *J.I. Case Co. v. Borak,* 377 U.S. 426, 84 S.Ct. 1555, 12 L.Ed.2d 423 (1964)—finding implicit in statutes rights (for example, to seek damages for a violation of a statute that does not specify damages as a remedy) that would make the statute more likely to achieve its aim. That now-abandoned approach overlooked the fact that statutes are very often the product of compromise. It can't be assumed that in passing a statute that creates a remedy for a perceived wrong, Congress wants the courts to amend the statute (in the guise of interpretation) by adding remedies that will increase the statute's severity, thus overriding limitations on that severity that may have been the price for getting the statute enacted. But what our court did in *Newsom* and does again today is not to strengthen a statute that Congress might not have wanted strengthened, but to weaken a statute that Congress had given no evidence of wanting weakened.

The Fair Debt Collection Practices Act is designed to prevent excesses by debt collectors. 15 U.S.C. § 1692(a), (e) ("it is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors"); *Muha v. Encore Receivable Management, Inc.,* 558 F.3d 623, 629 (7th Cir.2009); *Jacobson v. Healthcare Financial Services, Inc.,* 516 F.3d 85, 89 (2d Cir.2008). By "debt collectors" is understood firms that try to collect consumer debts, which usually are too small to justify a lawsuit unless the debt is promptly defaulted, thereby enabling the debt

collector to obtain—without incurring significant litigation cost—a judgment that it can use to collect the debt by garnishing the debtor's wages. *O'Rourke v. Palisades Acquisition XVI, LLC,* 635 F.3d 938, 940 (7th Cir.2011) ("with the costs of litigation and the difficulties establishing the debt, when a debt collector cannot get payment through phone calls and letters and it has to go to court, the debt collector will often rely on default judgments as the last resort"); see *Evory v. RJM Acquisitions Funding L.L.C.,* 505 F.3d 769, 775 (7th Cir.2007); *White v. Goodman,* 200 F.3d 1016, 1019 (7th Cir.2000); Bernice Yeung, "Some Lawyers Want to Keep Debt Collection Out of the Courts," *New York Times,* Apr. 23, 2010, p. A21A, www. nytimes. com/ 2010/ 04/ 23/ us/ 23 sfdebt. html (visited Oct. 30, 2013). Deprived of contested litigation as a feasible means of obtaining repayment of a small debt, debt collectors resort to substitutes, some unsavory, such as harassment, as noted in such cases as *FCC v. Pacifica Foundation,* 438 U.S. 726, 749 n. 27, 98 S.Ct. 3026, 57 L.Ed.2d 1073 (1978), and *Horkey v. J.V.D.B. & Associates, Inc.,* 333 F.3d 769, 771 (7th Cir.2003); see also W. Page Keeton et al., *Prosser and Keeton on Torts* § 12, pp. 61–62 (5th ed.1984).

One harassing tactic is to file a claim against a debtor in a court remote from his home or place of work, in the hope that he'll default rather than take the trouble to travel to the remote site of the court, see *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117, 124 (2d Cir.2011); or to file in a court in which judges are unsympathetic to debtors. In short, debt

collectors shop for the most advantageous forum, abetted by decisions such as the one in this case.

It is against this background, rather than in a vacuum, that we should be interpreting the provision of the Fair Debt Collection Practices Act at issue in this case. That provision states that unless the debt sued on is secured by real estate, a debt collector can bring a legal action to collect it "only in the judicial district or similar legal entity—(A) in which such consumer signed the contract sued upon; or (B) in which such consumer resides at the commencement of the action." 15 U.S.C. § 1692i(a)(2). (If real estate is security for the loan, as it is not in this case, the action must be brought in the judicial district or similar legal entity in which the property is located, § 1692i(a)(1); that will usually be an advantageous venue from the debtor's standpoint.) The bigger the district and therefore the more courts it contains and the farther the debtor may have to travel to the court chosen by the debt collector to sue the debtor in, the greater the debt collector's opportunity to forum shop. The natural objective to impute to the quoted venue provisions, and thus to the key term "judicial district or similar legal entity," is to limit forum shopping by debt collectors. A purposive interpretation of the phrase would ask what interpretation would protect consumer debtors without crimping the collection efforts of debt collectors beyond the point fixed or implied in the statute.

Newsom did not take the approach I've suggested; nor does the panel in this case. Both opinions take a

purely semantic approach: the court asks what meaning can be assigned to "judicial district" and "similar legal entity" without reference to statutory purpose. One possible outcome of the semantic approach would be that "judicial district" means anything called a "judicial district," and "similar legal entity" anything that is identical to some (maybe any) judicial district but called by a different name. Suppose a state had a judicial structure identical to that of another state, but the other state was divided into "judicial districts" while the first state was divided the same way but its "districts" were called "judicial divisions." Those divisions would be similar legal entities within the meaning of the Fair Debt Collection Practices Act on the literalistic interpretation that I'm assuming, but divisions of federal districts would not be. The Northern District of Illinois is divided into two divisions, called the Western Division and the Eastern Division. Obviously they are not identical to the Northern District; they are components of it. So under the approach adopted in *Newsom* and the present case, if a debtor lived in and had signed a loan contract in Chicago (which is in the Eastern Division), a debt collector could (in the unlikely event of being able to find a federal jurisdictional basis for suing the debtor in federal court) nevertheless sue the debtor in Rockford. That city is in the Western Division—and is 89 miles by car from Chicago. In Montana, by the logic of *Newsom* and the majority opinion in the present case, a resident of Billings could be made by a debt collector to drive 346 miles one way to the federal courthouse in Missoula to defend against the debt collector's suit, even though

Billings has its own federal courthouse, because both courthouses would be in the same "judicial district," namely the District of Montana.

Newsom concerned debt collection in Illinois rather than, as in this case, Indiana. The Illinois Constitution divides the state into Judicial Circuits, which are analogous to federal districts. The Circuit Court of Cook County (the most populous Illinois county, as it is the county that contains Chicago) has created six Municipal Department Districts. *Newsom v. Friedman, supra,* 76 F.3d at 818. The First Municipal District is Chicago, and has courts at nine locations. www. cookcounty court. org/ aboutthe court/ Municipal Department/ FirstMunicip alDistrictChi cago.aspx (visited Oct. 30, 2013). Suits for debts that do not exceed a specified amount ($30,000 in Chicago, $100,000 in the suburbs, see Circuit Court of Cook County General Order Nos. 1.2, 2.3(b)(1), (2)) may be filed in a Municipal Department court in the district in which either the debtor resides or the transaction giving rise to the debt took place—venues similar to those specified in the Fair Debt Collection Practices Act. But the Cook County ordinance that creates these Municipal Department courts authorizes the Circuit Court to transfer suits filed in a Municipal Department court to any other court in the county, which needn't be a Municipal Department court. Cook County General Order No. 1.3(a). There is also authorization for transfer "to any other department, division or district" of the Cook County Circuit Court "for the convenience of parties and witnesses and for the more efficient disposition of litigation." *Id.,* 1.3(d).

This provision seems to have been decisive in the ruling in *Newsom* that the Municipal Department Districts are not judicial districts or similar legal entities within the meaning of the Fair Debt Collection Practices Act. The "judicial district or similar legal entity" is, according to *Newsom,* Cook County.

I don't get it. The land area of Cook County is almost 1000 square miles. The county stretches 47 miles from its southern to its northern border. Debt collectors can easily find a court that is inconvenient to the debtor in which to sue him. For example, while suburban Evanston Hospital is fewer than 5 miles from the Second Municipal District Courthouse in Skokie, it is more than 40 miles from the Sixth Municipal District Courthouse in Markham. The debt collector in *Newsom* sued the debtor in downtown Chicago, more than 30 miles from Schaumburg, where the debtor lived—and where the debt collector could have sued her.

I can think of no reason related to the Fair Debt Collection Practices Act for disqualifying the Cook County Municipal Department Districts from being regarded as judicial districts or similar legal entities. No reason is given in the *Newsom* opinion or in the majority opinion in the present case. To deem them judicial districts or similar legal entities would prevent forum shopping by debt collectors that can undermine the effectiveness of the federal act. It is especially puzzling that the court in *Newsom,* committed as it was to a literalistic approach to statutory interpretation, refused to classify Cook

County's Municipal Department *Districts* as judicial districts, while classifying Cook County *Circuit* as a judicial district. So literalism went out the window.

The court thought that only a judicial entity created by the Illinois Constitution could be a judicial district. (The Municipal Department Districts had been created by the Circuit Court of Cook County.) Where does that idea come from? There isn't even a semantic basis for limiting the definition of "judicial district" to a district created by state rather than county law; the words "state," "county," "city," or "township" do not appear in section 1692i.

That is the section we're interpreting, and *Newsom* should have related it to what the Circuit Court of Cook County had done. It had created Municipal Department Districts for the convenience of litigants, lawyers, and judges. It had divided the county into six districts and placed a courtroom near the center of each, all for convenience's sake. Section 1692i says in effect: "debt collector, you must sue in the court most convenient to the debtor." The court in *Newsom* failed to put two and two together.

Marion County, which is coterminous with the City of Indianapolis, is Indiana's most populous county, and is thus to Indiana as Cook County (dominated by Chicago) is to Illinois. Alone among Indiana counties it has "Township Small Claims Courts" (nine in number), which are similar to Cook County's Municipal Department District courts, although their jurisdiction is limited to claims that

do not exceed $6,000. Ind.Code § 33–34–3–2. A report commissioned by the Indiana Supreme Court and authored by two Indiana appellate judges found that debt collectors seek out judges who favor debt collectors and are distant from the debtor's residence.

> Although the right to a change of venue appears on the Notice of Claim, many defendants are unaware that they have a right to ask the court to transfer the case to the townships where they live. Defendants without private transportation face few realistic options for travel to township courts outside their own townships. For example, it can take more than three hours, roundtrip, to travel from Lawrence Township to the Decatur Township Small Claims Court via city bus. Litigants who choose to take a taxi instead will pay an extraordinary amount to travel from Lawrence Township to Decatur Township.

John G. Baker & Betty Barteau, *Report on the Marion County Small Claims Courts* 13–14 (May 1, 2012), www. in. gov/ judiciary/ files/ pubs– smclaims– rept– 2012. pdf (visited Oct. 30, 2013).

The named plaintiff in this case lives in Hancock County, which adjoins Marion County on the east. There is, as noted in the report on the County's small claims courts, a Township Small Claims Court in Lawrence, which is on the east side of Marion

County, close to the plaintiff's residence. The defendant debt collector could have sued him there because that was where the debt had been incurred. Instead it sued him in the Township Small Claims Court in Pike Township, at the western end of Marion County, 20 miles from Lawrence and a 54–mile round trip from the plaintiff's home. A debtor has a right to a change of venue to a more convenient small-claims court—but only if he files a motion within ten days of service. Ind.Code § 33–34–3–1(a). How many small debtors have heard of "venue" or would think to ask for a transfer of the suit against them to another court—much less within ten days? Debt collectors have a wide choice of courts in which to sue; in practice, even if not in principle, the debtors do not.

The debt collector's brief, dry as dust, makes no effort to relate the meaning of "judicial district or similar legal entity" to the purpose of the Fair Debt Collection Practices Act. The plaintiff's briefs are pretty dry as well, but do at least explain how the forum shopping enabled by the approach taken in *Newsom* denies important protections to debtors—though of course the plaintiff tries to distinguish that decision from this case. He points us to *Hess v. Cohen & Slamowitz LLP, supra,* which held that the City Courts of New York State, which are similar to Cook County's Municipal Department District courts and Marion County's Township Small Claims Courts, *are* judicial districts under the Fair Debt Collection Practices Act. But the court in *Hess* distinguished *Newsom,* rather than rejecting it, on the ground that the Municipal Department District courts had been

created by the Circuit Court of Cook County as a matter of administrative convenience and (as I noted earlier) the Circuit Court can reassign a case from one divisional court to another, while the circumstances in which reassignment of a case is possible from one City Court to another in New York are "very limited." 637 F.3d at 127. What any of this has to do with the concerns behind the venue provisions of the Fair Debt Collection Practices Act escapes me. What's true is that a debt collector is free to choose a court *system* (federal, county, city, or township, depending on jurisdictional requirements) in which to file. But once it makes its choice, section 1692i requires it to pick the most convenient court within the system's territorial limits. That would be Lawrence Township court in this case, Clay town court in *Hess* (as that court held), and the Third Municipal District in *Newsom,* contrary to our holding in that case.

The defendant debt collector in the present case specializes in collecting debts for medical treatment, and many of the debtors are elderly or in poor health (often of course both), which makes them especially vulnerable to the defendant's disreputable tactics.

APPENDIX C: MEMORANDUM AND ORDER OF THE DISTRICT COURT

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Mark Suesz, individually and on behalf of a class, et. al., Plaintiffs,

v.

Med-1 Solutions, LLC, Defendant.

No. 1:12-cv-1517-WTL-MJD

March 21, 2013

ENTRY ON MOTION TO DISMISS

WILLIAM T. LAWRENCE, *District Judge*.

This cause comes before the Court on the Defendant's motion to dismiss. Dkt. No. 18. The motion is fully briefed, and the Court, being duly advised, rules as follows.

I. STANDARD

In reviewing a motion to dismiss under Rule 12(b)(6), the Court takes the facts alleged in the complaint as true and draws all reasonable inferences in favor of the plaintiff. The complaint must contain only "a short and plain statement of the claim showing that the pleader is entitled to relief," Fed.R.Civ.P. 8(a)(2), and there is no need for detailed factual allegations. However, the statement must "give the defendant fair notice of what the ... claim is and the grounds upon which it rests" and the "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Pisciotta v. Old Nat'l Bancorp,* 499 F.3d 629, 633 (7th Cir.2007) (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)).

II. BACKGROUND

In the instant action, Plaintiff Mark Suesz brings this putative class action,[1] alleging that Defendant Med–1 Solutions, LLC, ("Med–1") violated the Federal Debt Collection Practices Act ("FDCPA") when it attempted to collect a health care debt from

[1] While Suesz filed this case as a putative class action and has moved for class certification, by agreement of the parties the issue of class certification has been deferred. Dkt. Nos. 20, 23. Accordingly, this ruling applies only to Suesz individually.

him by filing suit in Pike Township small claims court. Suesz alleges that filing collection lawsuits in township small claims courts located other than in the township where the debtor lives or signed a contract is a violation of the Act. Suesz does not live in Pike Township, nor did he sign the contract giving rise to the debt in Pike Township. Med–1 moves to dismiss on the ground that, as a matter of law, filing in such a township is not a violation of the Act. It contends that it is sufficient to file in the county where the debtor resides or where the contract was signed.

III. DISCUSSION

Under the FDCPA, a debt collector must bring an action to collect a debt "only in the judicial district or similar legal entity in which such consumer signed the contract sued upon; or in which such consumer resides at the commencement of the action." 15 U.S.C. § 1692i. The issue here is the meaning of the term "judicial district." Med–1 contends that the applicable "judicial district" is Marion County as a whole, while Suesz contends that the applicable "judicial district" is narrower—it is each township small claims court.

A. *Newsom*

The Seventh Circuit addressed the same question with respect to the Illinois courts in *Newsom v. Friedman,* 76 F.3d 813 (7th Cir.1996). In *Newsom,* a debt collector had filed suit against the debtor in the first municipal district of the Circuit Court of Cook County, but the debtor resided in the third municipal district of the same county. The debtor filed suit, alleging a violation of the FDCPA. On motion by the debt collector, the district court found that the FDCPA required the debt collector to file in the appropriate Circuit Court, but did not further require him to file in any particular subdistrict within the Circuit Court. The debtor's claim was therefore dismissed; the debtor appealed.

The Seventh Circuit affirmed. The Court found the term "judicial district" unambiguous and defined it by reference to the definition in Black's Law Dictionary in effect at the time the FDCPA was enacted:

> One of the circuits or precincts into which a state is commonly divided for judicial purposes; a court of general jurisdiction being usually provided in each of such district, and the boundaries of the district marking the territorial limits of its authority; or the district may include two or more counties,

> having separate and independent county courts, but in that case they are presided over by the same judge.

76 F.3d at 817 (citing Black's Law Dictionary 848 (6th ed.1990)). It then went on to assess the Illinois judicial structure before determining whether the term "judicial district" encompassed Circuit Courts, municipal districts, or both.

In the first part of its analysis, the Court focused on the structure of the Illinois Circuit Courts before finding that a Circuit was a judicial district. The Court noted that each judicial Circuit has one Circuit Court presided over by one chief judge. It explained that the Circuit Courts possess original jurisdiction and, even when divided into various divisions, the divisions are not jurisdictional; rather, the divisions are for administrative purposes only.

In the second part of its analysis, the Court turned to whether a municipal department district may also constitute a judicial district. Of importance to the Court was the fact that, although local rule appeared to restrict venue to the defendant's place of residence or the place of transaction, another local rule provided for the trial of a proceeding in any Circuit Court of the county, regardless of department, district, or division. Likewise, actions were not

subject to dismissal for being filed, tried, or adjudicated in the wrong department, division, or district. In the Court's eyes, such a scheme was evidence of the "administrative" purpose of the divisions. The Court therefore concluded,

> [r]ather than dividing itself into legally distinct judicial districts, the rules governing the administration of the First Judicial Circuit indicate that the Circuit has promulgated administrative rules to facilitate its own administration. The Circuit continues to have one Chief Judge, the Circuit as a whole is the court of original jurisdiction for all of Cook County, and the boundaries between the Municipal Department administrative subdistricts do not set any territorial limits to the subdistrict's authority within the Circuit. Therefore the Municipal Department districts are neither defined as judicial districts, nor under the rules governing their operation do they function as judicial districts. Based upon the structure and function of municipal department districts, we therefore conclude that they do not fit

> within the definition of "judicial district" as employed by the FDCPA.

Id. at 819. Because the Court held that a municipal district is not a judicial district under the FDCPA, the debt collector was not required by FDCPA to file in a particular municipal district. Therefore, his failure to file in the municipal district in which the debtor resided was not a violation of the Act.

With this analysis in mind, the Court now turns to the analysis of Indiana courts.

B. **Indiana Judicial Structure**

Article 7 of the Indiana Constitution vests the judicial power of the state in one Supreme Court, one Court of Appeals, Circuit Courts, and such other courts as the General Assembly may establish. Under Section 7 of that Article, the state is divided into judicial circuits, and a judge for each circuit is elected by the circuit's voters. Section 8 provides that the Circuit Courts have civil and criminal jurisdiction as prescribed by law; accordingly, by statute, Circuit Courts have original and concurrent jurisdiction in all civil and criminal cases, and de novo appellate jurisdiction of appeals from city and town courts. Ind.Code § 33–28–1–2(a)(1)-(2).

The Indiana General Assembly has established additional courts, "Superior Courts," by statute. *E.g.*, Ind.Code 33–33–49–6(a). The specific jurisdictional limits of a Superior Court are unique to each county. Ind.Code § 33–29–1–1 (applying to "standard superior courts"); § 33–33–49–1 (providing that provisions regarding "standard superior courts" do not apply to Marion County Superior Court); § 33–29–1.5–1 (applying to "nonstandard superior courts"). However, generally speaking, Superior Courts have original and concurrent jurisdiction in all civil and criminal cases and appellate jurisdiction of appeals from city and town courts. Ind.Code §§ 33–29–1–2; 33–29–1.5–2.

The county at issue here, Marion County, constitutes the 19th Judicial Circuit. Ind.Code § 33–33–49–2. By local rule, the Marion County Circuit Court hears only civil matters, while the Marion County Superior Court hears civil and criminal matters. The Marion County Circuit Judge may transfer a case filed in the Circuit Court to the Superior Court with the presiding Superior Court Judge's consent. Ind.Code § 33–33–49–24. Likewise, the presiding Superior Court Judge may, with the Circuit Court Judge's consent, transfer a case filed in the Superior Court to the Circuit Court. Ind.Code § 33–33–49–25. In Marion County, the Circuit Court also conducts de novo appellate review of appeals

from township small claims courts. Ind.Code § 33–28–1–2(a)(3).

Township small claims courts in Marion County are created by statute, Ind.Code § 33–34–1–2, and such courts have original and concurrent jurisdiction with the Circuit and Superior Courts in all civil cases sounding in contract in which the debt claimed does not exceed $6,000, not including interest or attorney's fees. Ind.Code §§ 33–34–3–2. However, the small claims courts are not courts of record, Ind.Code § 33–34–1–3, nor may claims be tried to a jury, Ind.Code § 33–34–2–10. If trial by jury is desired, the cause is tried in the Marion County Superior Court. Ind.Code § 33–34–3–11.

With one exception inapplicable here, a case within the jurisdiction of a small claims court may be venued, commenced, and decided "in any township small claims court in the county." Ind.Code § 33–34–3–1(a). However, venue may be changed if, on motion by the defendant, the township small claims court determines that "required venue" lies with another small claims court in the county where the action was filed. Ind.Code § 33–34–3–1(a). "Required venue" exists where any debtor has consented to venue in a signed writing, where a transaction or occurrence giving rise to the any part of the claim took place, or where the greater percentage of individual debtors resides. Ind.Code § 33–34–3–1(b).

At the same time, the Marion County Circuit Court judge may transfer cases from one township small claims court to another as necessary. Ind.Code § 33–34–5–1. The small claims judges may sit in place of one another and perform each other's duties at the direction or approval of the Circuit Court Judge. Ind.Code § 33–34–5–3. The Marion County Circuit Court Judge extends aid and assistance to the small claims judges in the conduct of the township small claims courts, Ind.Code § 33–34–1–5, and the Marion Circuit Court Judge, assisted by the judges of the small claims courts, has the authority to make uniform rules for conducting the business of the small claims courts, Ind.Code § 33–34–3–6.

C. Analysis

As in *Newsom,* a "judicial district" easily encompasses the Circuit Courts created under the Indiana Constitution, as supplemented by statute, as each judicial circuit is a court of general jurisdiction presided over by a Circuit Judge.[2]

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[2] Insofar as a Superior Court enjoys jurisdiction coterminous with the Circuit Court (albeit the latter's jurisdiction limited by local rule in Marion County), the Superior Court of each County is part of the same countywide judicial district as the Circuit Court.

However, also as in *Newsom,* the small claims township courts do not constitute judicial districts. The venue requirements for filing in small claims court make clear that any township court may hear a claim within the limits of its subject-matter jurisdiction. Although the change of venue provision provides a mechanism by which a defendant—in this case, a debtor—may move the case to a more convenient township, the fact that the Circuit Court Judge may transfer a small claims case from one township to another suggests, as in *Newsom,* that the venue rules are rules of administrative convenience.[3] The Circuit continues to have one judge, the Circuit as a whole is the court of original jurisdiction for all of Marion County, and the boundaries between the township courts do not set any territorial limits to the township court's authority within the Circuit.[4]

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[3] Of course, under the rules, Suesz could have moved to transfer the case from Pike Township to another township small claims court. However, the Court is mindful that this simple mechanism alone would not insulate Med–1 from liability under the Act, for "it is not without cost for a consumer to obtain [a transfer of venue] on the basis that [the action] was brought in the incorrect court." *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117, 124 (2nd Cir.2011).

[4] Suesz relies heavily on *Hess v. Cohen & Slamowitz LLP,* 637 F.3d 117 (2nd Cir.2011), for the proposition that the township courts are separate judicial districts. However, the city court divisions at issue in *Hess* were expressly limited in jurisdiction to actions where either the plaintiff or the defendant resided in the city or a town contiguous to that city. 637 F.3d at 122. The Marion County small claims township courts are not so limited in their jurisdiction. Ind.Code § 33–34–3–1(a).

The structure and function of the township small claims courts in Marion County do not fall with the definition of a judicial district. It follows that Med–1 was not required under the FDCPA to file in the township where Suesz lived or signed the contract. It was therefore not a violation of FDCPA for Med–1 to file in another township small claims court within Marion County, and Med–1 is entitled to dismissal of the claim against it.[5]

One additional point bears mention. It is tempting to get carried away in analogies to other aspects of the state judicial system. For example, Suesz draws the Court's attention to Indiana Trial Rule 75, which provides that venue is proper in any county in the state, subject to a defendant's request to have the case transferred to a "preferred" venue. According to Suesz, "the county [thus] bears the same relationship to the state as the township bears to Marion County." Suesz contends that such logic yields the clearly incorrect result that "insofar as the Superior and Circuit Courts are concerned, the 'judicial

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[5] Suesz does not argue that the township small claims courts constitute "other similar legal entities." Even if he had, his claim would still fail. The FDCPA employs the disjunctive in limiting venue for debt collection actions. *Newsom,* 76 F.3d 813. Because the Marion County Circuit and Superior Courts constitute a "judicial district," Med–1 has complied with the Act.

district or similar legal entity' is the entire state and [therefore] 1692i has no application in Indiana." The Court agrees with Suesz that surely this is not what Congress intended. However, one must not lose sight of the statutory text: a "judicial district" is "[o]ne of the circuits or precincts into which *a state* is commonly divided for judicial purposes." As a "judicial district" is a subdivision of a state, § 1692i itself forecloses this result.

IV. CONCLUSION

For the foregoing reasons, the Defendant's motion to dismiss is **GRANTED.**[6]

SO ORDERED:

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[6] Med–1 takes issue with Suesz's use of the Small Claims Task Force Report in his Complaint, to which objection Suesz responds. The concerns raised in the Report notwithstanding, whether Suesz's use of the Report is proper need not be decided in order to resolve the question of statutory interpretation before the Court. The Court expresses no opinion on the propriety of the small claims township court system as a whole; the only allegation in this case is that a creditor runs afoul of the FDCPA in filing in a township court wherein the debtor does not reside or has not signed a contract.

APPENDIX D: 15 U.S.C. § 1692i

a) Venue

Any debt collector who brings any legal action on a debt against any consumer shall—

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

(A) in which such consumer signed the contract sued upon; or

(B) in which such consumer resides at the

commencement
of the action.

(b) Authorization of actions

Nothing in this subchapter shall be construed to authorize the bringing of legal actions by debt collectors.

15 U.S.C. § 1692i.