Alan Kaplinsky: Welcome to the Consumer Finance Monitor Podcast, where we explore important new developments in the world of consumer financial services and what they mean for your business, your customers, and the industry. I am your host today Alan Kaplinsky, and I'll be moderating today's program. For those of you who desire even more information about the topics that we discuss in our podcasts, including the topic that we're discussing today. I want to refer you to our blog, which also goes under the moniker of Consumer Finance Monitor. We've been doing our blog now for over 10 years, and there is a huge amount of content on the blog. So let me tell you what we're going to be talking about today and who's going to be talking about it and who I'm going to be interviewing. So we're going to discuss a litigation, consumer financial services litigation.

Mostly we're going to be prognosticating into this year or the remainder of this year and with the change in administration, with new people in charge of the important agencies that regulate in this area, all there's a lot of change going on and I suspect that we're going to hear today that there's going to be quite a few changes in the world of consumer finance litigation, but let me introduce our presenters today and my two colleagues. First, certainly no stranger to any of you that have listened to our podcast, Chris Willis. Chris is the co-leader of our Consumer Financial Services Group. He succeeded to that position, succeeding me on January one of this year. And he devotes his practice to assisting financial services institutions that are facing state and federal government investigations and exams, counseling them on compliance issues.

And of course, defending them in individual and class action lawsuits that are brought by consumers and government enforcement actions that are brought by various government enforcement agencies, including most notably the CFPB. Next, let me introduce also a colleague of mine Dan McKenna and Dan is the practice leader of our Consumer Financial Services Litigation Group. Dan devotes, his practice to privacy and data security, consumer financial services litigation, mortgage banking litigation and handles a wide range of individual and class action lawsuits and arbitration, covering the full gamut of consumer finance litigation. So, first of all welcome Chris and Dan. So before we look ahead further into 2021, I want to look in the rear view mirror in terms of what happened in 2020. And of course I'm sure that COVID-19 had a very important impact on what happened last year, but Dan, let's start with that and then we'll start put on our glasses projecting into the future.

Dan McKenna: Oh, that makes a lot of sense, Alan, and you're right COVID-19 and the pandemic had a pretty major impact on 2020, and it was a very strange year for a lot of reasons. Very early on in the year as everyone started managing the pandemic and dealing with the pandemic, we saw a pretty significant drop in litigation. The plaintiffs' bar and consumers were dealing with the pandemic issues and the closures of the courts and not able to get their cases on file or to pursue their cases. It should come as no surprise that as the pandemic and the court issues progressed there were very few in court appearances, there were

little opportunities for jury trials and the courts were forced to start to manage and figure out how to deal with those issues. No surprise the plaintiffs' bar is pretty resilient and they found creative ways to start dealing with their litigation backlog and addressing their potential cases.

We started seeing pretty significant upticks in pre-litigation demands and significant upticks in new case filings, particularly in the Fair Credit Reporting Act space. We saw a significant decline in debt collection litigation and a decline, but relatively minor, considering all of the issues out there and TCPA related litigation. At the end of the year, what we found was an overall significant increase of almost 5% in credit reporting litigation and a significant decrease in debt collection of 17% FTCPA litigation, and a decrease of about 2% in TCPA litigation. Now that said how we manage those cases and how those cases were being brought was a pretty significant shift in 2020 from years past that I think we're going to see rolling into '21. And I mean that in two ways, first, what you can and can't do in court. We have a number of jury trials that were teed up for 2020, and we've been told most likely 2022, at this point, given the circumstances. The courts are really struggling with how to do in-person hearings, how to do Zoom hearings and whether or not there are due process issues with actually trying cases to the merits.

The impact of that is the ease with which consumers can pursue arbitration has made that a very popular opportunity and option. So we've seen a tremendous uptick in consumer arbitrations being filed, both in JAMS and AAA, and also in other third party arbitration forms. And I think we're going to see that continue. So ultimately, Alan, what happened was a year that began in decline, saw the plaintiffs' bar really start to scramble to catch up and end pretty much on par with what we were seeing in years past.

Alan Kaplinsky: Okay. Do you have anything to add to that, Chris, before we start looking ahead?

Chris Willis: The thing that I would add is the thing that made 2020 remarkable was that we had the combination of severe economic dislocation in the country with a lot of unemployment and other economic hardship that was going on with people who live in the United States, with a really significant amount of government assistance to the economy in the form of stimulus and unemployment and things like that. And so, although ordinarily, you would expect economic dislocation to drive a lot of consumer initiated litigation against creditors and other entities in the industry. That big surge that we would normally see in a recession like we did in 2008, didn't happen because of the effect of the government assistance. And in fact, what we saw was record repayment rates, record rates of delinquencies being reduced by consumers. Consumers took the money that they got and were using it to pay their bills and put their financial houses in order. And so we didn't see a spike in delinquency rates. We actually saw the opposite of that.

That's what all the industry data is telling me. And so that's what made 2020 unique in terms of the combination of both the economic hardship, plus the government assistance, net it out to a place that didn't provide a strong driver for litigation as the 2008 recession, for example, did, that's an important lesson for us to consider as we look forward, but we'll talk about that in just a minute.

Alan Kaplinsky: Yeah. Okay. Thanks Chris. Well, let's start looking forward. And what I want to start with another question for you, Chris. And that is how do you see the general environment for consumer finance litigation developing in 2021? Do you think it will be up, down, steady? What are your general thoughts on that?

Chris Willis: Sure. And I think really answering that question just requires us to understand what happened in 2020 as I was just mentioning, and then projecting how that will play out in 2021, which of course is subject to some uncertainty because the government's role in it is a very large one, but the general feeling I have is that the government assistance is going to keep flowing. That's been a commitment by the incoming administration. It's been a recommendation by the nominee for the Fed chair, Janet Yellen. And so we expect there to be continued government assistance and for the vaccine to roll out perhaps more broadly than it has been thus far, both of which should be positives from the standpoint of the economy. But my belief is that won't undo all the damage that's been done to the economy and all the unemployment that's been created by COVID because there's a lot of it out there, even the jobs report that came out today confirmed that.

And the thing is eventually the government assistance will stop and eventually lenders forbearance and other hardship programs will come to an end and there will be some group of consumers who will still be in difficulty and in delinquency at that point. When that happens, then I think we'll see a rise in private litigation because delinquency and associated collection efforts have always been one of the primary drivers of the incidence of private litigation in our industry. So when the government assistance stops and the lenders stop being generous with their extension forbearance, other types of hardship programs, that's when I think we'll see a modest increase in litigation, not a giant increase because I think the worst of the effects of it will have been moderated by the factors that I discussed so far, but there will be, I think be a modest increase in private litigation, perhaps hitting later this year.

Alan Kaplinsky: Yeah. Let me drill down a little bit this time with you Dan, and I'm wondering what you see as the principle claims and causes of action which are going to be asserted this year. Is it going to be similar to last year or do you see some shifts?

Dan McKenna: Well, Alan, I think that the grounds and the basis for the claim, the underlying facts for the claim are going to shift. But we're continuing to see a lot of the same trends that we saw at the end of 2020. By far the biggest increase in filings is under the Fair Credit Reporting Act. That was true at the end of 2020 and continues to be true now in the first month of '21. What we are seeing though is

to Chris's point a shift in the volume of those types of cases and as a result of a number of pandemic related issues, and quite frankly, some creative plaintiffs' counsel who are attempting to fill their plates as well coming up with some new theories and issues under the Fair Credit Reporting Act, which is resulting in a continued increase in volume. Strangely enough, we also are seeing a pretty significant surge in telephone consumer protection act cases, but I think that's largely council clearing their backlog or try and get cases in before the Supreme Court's decision, pending decision on the definition of the ATDS.

Alan Kaplinsky: Okay. So Dan is any of this litigation unique to what we have historically seen?

Dan McKenna: Well, focusing on the credit reporting litigation, there is a decent amount of similarity with historic litigation, for example, S2B claims against furnishers. They continue to make up a huge portion of the FCRA litigation, and we are continuing to see pretty significant growth in fraud based claims, also being brought under S2B. While those two things aren't unique, we're seeing a lot of unique underlying theories. And I mentioned a moment ago, creative plaintiffs' counsel, and they're coming up with new theories that we're starting to see pop up pretty regularly. For example, we are seeing and expect to see growth in consumers using the FCRA to collaterally attack debt, which is basically an argument that the FCRA was violated by accurately reporting a debt that the plaintiff believes is legally invalid. Now there's a lot of good case law on that Alan rejecting those claims, but there seems to be a concerted effort right now in the plaintiffs' bar to change that law.

So we're seeing a lot of that volume. There's also been a significant uptick in interpretation claims. And in that, I mean claims that are reporting accurately, forgive me, claims that the debt is reporting accurately, but could be potentially misinterpreted or could mislead future creditor. And we've seen that a lot historically with dispute codes. But we're starting to see that pop up now in other areas, including payment status, payment rating, et cetera. And that seems to be a new trend. And then finally, Alan, if I can add one more, we're starting to see, although admittedly, just a trickle of CARES Act based claims relating COVID-19, related deferrals, partial payments, and forbearances.

This litigation hasn't really exploded yet, but it's certainly primed to, as we are still in the covered period and quite frankly, there's not any end in sight as to when that period will end. And there are significant pushes at the plaintiffs' bar to start bringing more CARES Act claims, because I think it's a really appealing case.

Alan Kaplinsky: Let me ask either one of you this question and that is I mentioned at the outset of our show today that we've had a rather dramatic shift in the administration from Trump to Biden. We have what I would describe as a very progressive nominee to take over the directorship of the CFPB that usually translates into more regulation, more enforcement, heavier supervision. And I'm wondering if you see any any impact on private litigation from the shift in what has happened

at the federal level with what we anticipate will be a more aggressive CFPB, perhaps a more aggressive federal trade commission, because that will be under control of Democrats.

What do you think? Do you want take a shot at that one, Chris? Is it of no impact?

Chris Willis: Well, let me answer your question. And the good thing is we have a very ready set of experience to draw on to answer your question, because we had a very aggressive CFPB from 2011 until 2017 under director Richard Cordray. But in my experience, there was always a very weak connection between the level of activity of that regulator and the incidence of private litigation. We were concerned at the beginning of the CFPB's inception that CFPB consent orders would translate into follow on private litigation all the time. And it just didn't really happen that often. And the things that the CFPB would do in terms of entering into consent orders with parties in my experience, didn't really lead to a lot of additional litigation. So my own view is that private litigation gets driven by its own drivers. If there's a Washington impact, it probably needs to be legislative. But in terms of the activity of the regulators, I didn't see it encouraging that much additional litigation.

Alan Kaplinsky: So Chris I hear you in saying that what's going to happen at the CFPB, probably not much of a correlation between that and private litigation, but what about legislation? We now have a House controlled by the Democrats, Senate barely in control of the Democrats, a Democratic president. There's I guess, potentially the risk at least if you look at it from an industry standpoint of there being some consumer finance protection legislation and I guess that could have an impact. So what do you think there, I'm thinking, for example, is FCRA fair game for Congress? What about a law banning the use of consumer arbitration?

Chris Willis: Yeah, I think those are definitely on the wishlist of certain members of the Democratic party. And if you've watched the activities of the House Financial Services Committee over the last two years under the chair womanship of Maxine Waters, you've seen proposals to make pretty dramatic amendments to the Fair Credit Reporting Act. And then of course, arbitration is always on the hit list of some Democrats. The thing is though, I think even though those things might be introduced in and pass the House, which I think is reasonably likely, it's a real question as to whether they would get through the Senate, because even though the Democrats, do have a majority just barely in the Senate, you've got a group of three or four or five moderate Democrats who might prevent any significant game-changing legislation from happening at the federal level.

So although, it's possible, you could have consumer litigation profoundly impacted by legislative changes at the federal level. My own view is that the likelihood of those changes actually getting through the Senate and becoming law is pretty low. I would point out though that on the legislative front, where we are likely to see more action is at the state level. There are certain States

who've made passing consumer finance legislation, a big priority in recent years, both regulatory and statutes that affect private litigation, California is a great example of that, New York is a good example of that. And there's no reason to believe that that legislation is going to let up in terms of its intensity. So my basic answer is probably not at the federal level, but yes at the state level.

Alan Kaplinsky: Yeah. I think if I could just add to that, Chris, at the federal level even though in the Senate there are a couple of Republicans, I'm thinking of Lindsey Graham and John Kennedy from Louisiana who don't particularly like arbitration. I testified at a Senate hearing of the Judiciary Committee a little over a year ago. And Lindsey Graham made his views very clear and while that may have surprised some people, it didn't really surprise me because when the CFPB promulgated its anti arbitration rule, banning the use of class action waivers in arbitration agreements while that rule was overridden by a majority in the House, Senate and then signed by Trump, two Republicans voted in favor of the CFPB rule, namely Lindsey Graham and John Kennedy.

So I suppose at some point there is certainly a possibility that they could deal with arbitration and that is ban it in a number of contexts. I think in light of everything else that's going on, there're the priorities to enact other legislation are so much higher and then they've got on top of that, having to deal with this Senate trial, the impeachment trial of former president Trump. It just seems to me that arbitration is not going to be a high priority at least that's my feeling. Let's talk about and I want to go to you Dan this time a very important Eleventh Circuit opinion that came down on September 17th of last year, Johnson v. NPAS Solutions. And in that case, a panel of the Eleventh Circuit ruled two to one that incentive awards that are given to representative plaintiffs in class actions are impermissible. And first of all, I'm wondering if you could tell us in a little more detail why the court ruled the way it did is it contrary to any other Circuit rulings? And I understand there's a petition for rehearing on bank that it's pending in that case.

Dan McKenna: So Alan you're correct that this was a pretty major decision. The Eleventh Circuit ruled that incentive awards to class reps are impermissible. They based that decision on a number of Supreme Court decisions that were pretty old they're from the 1880s. And they looked at those decisions and ruled that the incentive award to a plaintiff was effectively a kickback and thus inconsistent with the point and purpose of a class representative. You're also right that the plaintiffs filed a petition for rehearing on bank, and their argument was primarily that this decision conflicts with a Second Circuit decision from last year rejecting the same argument. Six amicus briefs have been filed all in favor of the Eleventh Circuit overturning its decision, but they haven't yet decided whether they're even going to reconsider it. The last docket entry was in November and it was an order to withhold the issuance of the mandate. Now, I will tell you that in order to withhold the issuance of a mandate, strongly suggests that they're going to reconsider this decision, but we don't know whether they're going to do it, and if they do which way they would go.

Alan Kaplinsky: And then I suppose, Dan if they did decide not to grant rehearing on bank, or even if they granted it and upheld the panel decision, there's probably a pretty good chance the Supreme Court would hear that issue, I would think because you'd have a direct split in the Circuits and knowing the composition of the U.S. Supreme Court that is being very much dominated by conservative justices. I would not want to bet against the Eleventh Circuit panel opinion being reversed. What do you think of that?

Dan McKenna: I think that you're right, Alan, which may be the reason why you don't see a filing with the Supreme Court on this issue. Right now, if it stands it's the law in the Eleventh Circuit, but not elsewhere. So I suspect the plaintiffs' bar is pretty aggressively figuring out how to challenge it and if they can do so without bringing it up to the Supreme Court.

Alan Kaplinsky: Yeah. Let me ask you this, either one of you because I know you've both handled a lot of class action litigation. If the Eleventh Circuit opinion becomes the prevailing point of view in the country where incentive awards cannot be given to named plaintiffs, is that going to have an impact on the volume of class action litigation? Either of you, what do you think?

Dan McKenna: Alan, it's hard to believe that it wouldn't have an impact on class action litigation. It certainly has had a minor impact in the Eleventh Circuit so far, but unfortunately the plaintiffs' bar in particularly the class action plaintiffs' bar is very creative. And in my experience, they find ways to get around the hurdles that they have. And although there was at least initially a reduction in the number of class action filings, we're starting to see them tick up even in the Eleventh Circuit. So it's an issue that should help to stymie the class action litigation, particularly the improper class action litigation, but the plaintiffs' bar is clearly finding ways around it. So although if it becomes a law of the case, I think it will have an impact, I don't think that impact will be significant enough that we can sit back and expect to see a real reduction in class litigation.

Alan Kaplinsky: I find it strange or perplexing to me that here is a practice that has been ongoing ever since I think class actions became possible in the United States, incentive rewards get approved all the time by judges who were approving settlements and all of a sudden a light bulb went off and some defendant decided let's take a run at this. At least I was surprised.

Dan McKenna: I don't think you're alone, Alan. And in fact, one of the arguments that they made in their petition to the Eleventh Circuit was that this has been the state of the law. This has been the common practice. It doesn't mean it's right. That doesn't mean that it's right. And it is certainly a process that we have seen abused in the past. And I have to imagine the Eleventh Circuit has as well. And it's a reflection of their growing weary of this practice.

Alan Kaplinsky: Yeah. All right. Let's turn to another case. And I want to go to you Chris, this time is case of TransUnion versus Ramirez. And that case, the Supreme Court

agreed to decide the following question that was posed by TransUnion, whether either Article III of the constitution or Rule 23 of the federal rules of civil procedure permits a damages class action, where the vast majority of the class suffer no actual injury, let alone an injury, anything like what the class representative suffered.

Chris Willis: So, Alan, this is another chance for the Supreme court to take a crack at Spokeo, but this time with a Rule 23 twist on it. So the basic setup factually in this case, and it's a case out of the Ninth Circuit, by the way is that you-

Alan Kaplinsky: Which the Supreme Court loves to reverse, correct?

Chris Willis: That's right. And probably this Supreme Court, more than any will love to reverse. But the basic setup is the allegation of the plaintiff's was that TransUnion made errors in designating people incorrectly as suspected or actual people who were on the SDN, the Specially Designated Nationality list under OFAC, which basically precludes people from offering them credit if they're on the SDN list. And so the name plaintiff was wrongly identified as someone who was on the SDN list was denied credit as a result of it. And so brought a case on behalf of himself and everybody else who had the same error. Interestingly, though, the class wasn't composed of people, just like the plaintiff, it was composed of people who were wrongly labeled as potentially are actually being on the SDN list, but there was no indication for the majority of the class members that any third party had ever seen their credit report with that designation on it.

So it was sitting on TransUnion's files, but no one saw it or acted upon it. There was a minority of the class where someone had seen the credit report, but there was no evidence. And you really couldn't have evidence in a class action of those individuals being declined for credit. So the basic argument that TransUnion made in the Ninth Circuit was well look, those people whose credit report was never don't even have standing because there's no injury to them whatsoever. And then also as a matter of Rule 23, the name plaintiff's claims are not typical of those of the class, because the name plaintiff has this special idiosyncratic injury that he was denied credit and the rest of the class wasn't. So either under Article III, under Rule 23, the case needs to go away. Unsurprisingly, the Ninth Circuit disagreed on both points and held that the class was properly certified and that even the class members who never had their credit report viewed by anyone had a right to be in the class and our right to recover damages.

And the final judgment was in the tens of millions of dollars. So what the Supreme Court gets a crack at now as a result of the question that it agreed to here, which you just recited is either [inaudible] prevent those class members from having standing. And so therefore they shouldn't be in the class at all, or is it improper to have a class representative who has a special and more severe injury represent people who have a lesser injury and then recover damages for

everybody? So the Supreme Court could go off continuing down the Article III reasoning that we first saw on Spokeo, or they could say as a matter of Rule 23, that, that person's not an appropriate class representative or that there are too many individual issues or whatever in the class to prevent the amalgam that the Ninth Circuit approved in its decision in this Ramirez case.

Alan Kaplinsky: All right. So this case does seem to have the potential for driving another stake into the heart of class action litigation. Right?

Chris Willis: For sure. And think if it goes the defendant's way, if it goes TransUnion's way, it really does cut off a major avenue of potential liability for class action plaintiff's lawyers to exploit. And so it could be a very significant development in class action jurisprudence.

Alan Kaplinsky: I suppose we could see more of a shift to the state courts for this type of litigation. Am I right?

Chris Willis: Some state courts, if they don't apply a similar standing requirement and wouldn't be persuaded by a Supreme Court decision under their own state institution or standing requirement. Yes. And there would be states like that.

Alan Kaplinsky: Right. It sounds like rough sledding for many years for plaintiffs class action litigators with this Supreme Court which isn't going to change very rapidly. And I think a court that is not particularly friendly, by and large that's not to say the liberal justices don't like it, but there could be five or six justices who really aren't keen on the device.

Chris Willis: Yeah. I agree with you. I think it is going to be a tough road for private litigation with this Supreme Court. And so I agree with you, it's going to be that way for a while. It'll be a very industry friendly environment in the federal courts and the Supreme Court for the foreseeable future.

Alan Kaplinsky: Yeah. So Dan, let's move away from class action litigation for a minute. And I'm wondering, I know you handle and have handled over the years, a lot of residential mortgage litigation, some of it default litigation, where a mortgage or defaults on their mortgage and they go to a lawyer because they're going to get foreclosed upon. And the lawyer says the best defense is good offense. So what do you see in 2021? Do you see any trends developing with the respect of mortgage litigation and what impact do you think the pandemic will have on those kinds of claims?

Dan McKenna: Sure. So we do anticipate a significant uptake in mortgage related litigation in large part Alan, because of the significant number of refinancing of loans that has occurred over the past year. And also because of the pandemic related rules that have been imposed. I mentioned the CARES Act earlier, and the Credit Reporting related to that, there is some confusion about Credit Reporting for forbearance and the fees charged during forbearance, and also just whether or

not you can forebear and whether or not you can charge fees in that instance. And we anticipate litigation there. There is some I'd say almost chaotic differences between GSE and CFPB guidance on deferrals right now. And whether or not agreements are required, whether they need to be recorded, how balances are reflected And the rumors, the plaintiffs' bar is digging in to try to find the angles to sue their under state UDAP claims, and then just generally servicing in general Alan, and particularly when it comes to distressed assets.

Right now with primarily foreclosure moratoriums in place, you don't see a ton of the litigation that you just mentioned, but sooner or later, that's going to get lifted. And when the foreclosures tick back up, there will be a significant amount of foreclosure related litigation and challenges and affirmative claims. All of that is coming very soon.

Alan Kaplinsky: Yeah. Yeah. So I want to conclude our podcast show today by just raising one other question. I want to raise it with you, Chris. And that is you over the years and certainly during the life of the CFPB have handled a ton of CFPB enforcement litigation. A number of cases have been settled. You've actually gone to court with some cases and I would be remiss while we're on the topic of litigation, we didn't at least allude to what type of litigation are we likely to see in the enforcement world brought by the CFPB, the FTC, state Attorneys General. Do you see an upsurge there and in general, what do you see?

Chris Willis: Yeah. So I think yes, there will be an increase in litigation with the CFPB. And I think that's going to be the product of two phenomena that are going to come together over the next few years. One is you're going to have a more aggressive CFPB that wants to do enforcement more. I think it's likely that the new director of the Bureau should he be confirmed. Rohit Chopra is likely to move the Bureau in that direction. The other trend though, is that you've got defendants in recent years, being much more willing to litigate cases with the CFPB and not reflexively entering into a consent order, a 100% of the time. That wasn't true in the early days of the CFPB, but then as the years went on, you saw a number of parties, successfully litigate cases with the CFPB. The PHH case was a good example of that, for example, but also the Weltman Weinberg case, where they went to trial and the CFPB lost.

And there've been a number of other pretty high profile instances where entities litigated with the Bureau and won, that combined with the fact that the court system is generally more defendant friendly as a result of four years worth of Republican appointments. And the Supreme Court is more friendly for the reasons that we just talked about ought to create an environment where fewer enforcement cases get resolved by consent order and more go to litigation, not massively more. I think most of them will still end in consent orders, but I think there will be more of them that are litigated. One interesting question though, is if the Bureau starts doing a lot more in the fair lending area, which I believe it will and the Department of Justice ramps back up with fair lending related

cases, redlining and other sorts of cases are defendants going to be willing to go to court on those?

Historically, that's been an area where defendants for reputational reasons didn't want to to litigate those cases, that track record speaks for itself in terms of the number of those that have ever been litigated, but will that change? Because you certainly do have a Supreme Court in the court now that may be very unfriendly to more aggressive, fair lending theories under the Equal Credit Opportunity Act or the Fair Housing Act. And there would be an opportunity potentially to successfully litigate one of those cases. I don't know how that's going to come out, but I do think in general, there will be more parties interested in litigating with the Bureau than has been the case in the past.

Alan Kaplinsky: Okay. So we've come to the end of our podcast show today, but before bringing it to an absolute end, I want to ask Dan or Chris, whether either of you have any concluding comments on the world of consumer finance litigation in 2021. Chris, let me get your concluding remarks.

Chris Willis: Sure. I think really it's an important time for the industry to be conscious of monitoring the drivers of litigation, both in terms of general industry and economic data, but also in terms of what they're seeing in their own portfolio performance, their own trends and their own complaints from consumers. Because we do expect, as I said, near the beginning of the program an increase in litigation this year and putting yourself in the best position to defend against that litigation means understanding what the issues are and being prepared to defend them and having that intelligence, the same kind of intelligence you use on the regulatory front and applying it to preventing and strengthening your defense on the litigation side is something that I would commend to members of the financial services industry.

Alan Kaplinsky: Right. Dan, any concluding remarks?

Dan McKenna: Well, I want to begin by echoing Chris's comment. Businesses that are proactive are going to help reduce their litigation much more so than businesses that are simply reactive. And as we continue to see shifts in litigation and legal theories, it's really important for businesses to not just to deal with them in the litigation, but to look at them as trends and see whether or not they need to be changing any of their other practices or strategies so that they can address those changes and that litigation. Relatedly, as volume, everything suggests that we are going to see and continue to see a pretty significant uptick in volume. And in that respect, it's really important to be prepared. We don't want the sheer volume of litigation that businesses are seeing to be a driver behind decisioning. Instead, we want to make strategic decisions for each individual case. So our clients need to be prepared for the uptake in volume so that it can address each case individually.

Alan Kaplinsky: Okay, well Dan, thank you. Chris, thank you. Really want to thank all of our listeners today who downloaded our show. And I want to remind our listeners that you can visit our website ballardspahr.com, or you can subscribe to the show. You can also subscribe in Apple Podcasts, Google Play, Spotify, or whatever your favorite podcast platform may be. And again, don't forget to consult our blog also called Consumer Finance Monitor. You should consider that a part of your regular daily routine for obtaining insights about what is happening in the consumer finance industry. We release a new podcast show 50 weeks a year on Thursday. The only two exceptions are when Thursday falls on a legal holiday. Again, thank you for listening today.