

## The Hudson Cook Usury Monitor - A Publication of Recent Usury and Finance Charge Cases - Summer 2025

September 30, 2025 | [Clayton C. Swears](#)

For all those interested in all things "Interest" related, we provide a summary of recent state and federal court cases involving usury, finance charges, and interest rates, as they relate to the consumer and commercial credit industries. Assuming the courts stay busy, please look for our next edition in the Fall.

**TILA/Solar - Seller's Points** - In connection with a solar loan, the trial court allowed discovery to proceed for a class action claim that seller's points were hidden finance charges under the Truth in Lending Act. Consumers claimed that a fee charged by the lender to the solar installer was in fact a finance charge passed on to the consumer. In Re: Dividend Solar Fin., LLC, & Fifth Third Bank Sales & Lending Pracs. Litig., No. MDL 24-3128 (KMM/DTS), 2025 WL 2430484 (D. Minn. Aug. 22, 2025).

- While still early in the litigation, this type of "hidden finance charge" case is troubling as it requires inferences that go beyond the consumer's individual transaction. The court is asked to compare transactions and determine whether an amount the parties agreed was part of the cash price in one transaction should be recharacterized as a finance charge based on what is charged in a different transaction.

**California/Consumer - Rate Unconscionability** - The trial court found that an APR of 128.40% on a \$3,500 consumer loan was not unconscionable for purposes of California's unfair practices act and debt collection laws. The court considered both procedural unconscionability and substantive unconscionability. *Powell v. UHG I LLC*, No. 23CV0086 DMS(KSC), 2025 WL 2646154 (S.D. Cal. Sept. 15, 2025).

- A helpful case when considering rate unconscionability issues. While the court found the take-it-or-leave-it loan offer applied some pressure, the lender clearly disclosed the APR and the borrower was free to seek other offers. The court noted that the rate was high "in the abstract," but the borrower's low credit score, coupled with the loan being unsecured, weighed against a substantive unconscionability finding.

**Florida/Commercial - Choice of Law** - The trial court dismissed a Florida usury claim involving a commercial loan, finding that the loan was governed by Virginia law. While

the transaction included a guarantee agreement that was governed by Florida law, the loan agreement contained a Virginia governing law provision. Avondale Decor, LLC v. Cap. Sols. Bancorp. LLC, No. 2:25-CV-450-JES-NPM, 2025 WL 2390711 (M.D. Fla. Aug. 18, 2025).

- A helpful case in connection with Florida's stringent usury laws and the use of choice-of-law provisions.

**Maryland/Earned Wage Access - Tips as Interest** - The trial court allowed a case to proceed against an earned wage access provider, with the case involving allegations that voluntary tips and fees were considered interest under the Maryland Consumer Loan Law. Johnson v. Activehours, Inc., No. 1:24-CV-02283-JRR, 2025 WL 2299425 (D. Md. Aug. 8, 2025).

- While the case is in the early stages, the court made a troubling statement that there is no requirement that "charges or fees must be inextricably related to or a necessary condition of" an advance in order for the fees to be considered interest.

**New Jersey/Tribal - Lender Not Arm of Tribe** - The Third Circuit found that a consumer lender was not an arm of the tribe for purposes of sovereign immunity involving a New Jersey usury allegation. Ransom v. GreatPlains Fin., LLC, No. 24-1908, 2025 WL 2203417 (3d Cir. Aug. 4, 2025)

- The court provides a detailed analysis of the "arm of the tribe" issue.

**New York/Commercial - Contingent Values** - In connection with a commercial loan made to finance the purchase of a portfolio of defaulted debts, the trial court ruled there was no criminal usury where the lender was to be repaid 115% of the amount loaned, plus an additional amount that was contingent on collection of the defaulted debts. The court found the 115% return was less than the 25% criminal usury cap and the remaining return was contingent and could not be measured for usury purposes. Steel River Systems, LLC, Plaintiff, v. Variant Alternative Income Fund, Pier Special Opportunities Fund, LP, & Greenhill Debt Management, LLP, Defendants., No. 24 CIV. 8676 (NRB), 2025 WL 2531353 (S.D.N.Y. Sept. 3, 2025).

- An interesting case where the rate of return on the loan was tied to the value of an item. The court helpfully pointed out that contingent values that cannot be determined at the time of contracting should not be taken into account for usury purposes.

**Pennsylvania/Earned Wage Access - Tips as Interest** - The trial court allowed a case to proceed against an earned wage access provider in connection with claims alleging that voluntary tips were considered interest for purpose of the Consumer Discount Company Act, which imposes a license requirement, and the Loan Interest and Protection Law, which imposes a usury limit. Golubiewski v. Activehours, Inc., No. 3:22-CV-02078, 2025 WL 2484192 (M.D. Pa. Aug. 28, 2025).

- As with the Maryland case mentioned above, the trial court made some troubling statements indicating that interest for usury or licensing purposes does not hinge on whether a fee is a "necessary condition" of obtaining a loan.

**Tennessee/Consumer - Choice of Law** - In connection with a vehicle purchase loan, the court upheld an Illinois governing law provision allowing a post-acceleration default rate of 18%. BMO Bank N.A. v. Noble Transportation LLC, No. 3:24-CV-00142, 2025 WL 2612762 (M.D. Tenn. Sept. 10, 2025).

- In considering the choice of law provision, the court noted that the lender's Illinois office location weighed against the governing law provision being a "sham" arrangement.

**Tennessee/Commercial - Usury Class Certification** - The trial court denied class certification in a class action brought by a real estate developer against a group of alleged lenders for violation of Tennessee's formula usury rate. The court found that the usury claim would involve a loan-by-loan analysis not appropriate for class certification. Sake Tn, LLC, & Seanache Homes, Inc., V. Patrick Moss, No. 3:21-CV-00108, 2025 WL 2713754 (M.D. Tenn. Sept. 23, 2025).

- The court discusses several interesting issues related to usury, including the basic elements of usury, when the cause of action accrues, and the appropriate statutes of limitations.

**Texas/Commercial - Usury Rate Calculation** - When calculating the usury rate for a commercial loan, the calculation must take into account the declining balance of the loan. In other words, a "principal x rate x term" calculation is insufficient. Am. Pearl Grp., L.L.C. v. Nat'l Payment Sys., L.L.C., No. 23-10804, 2025 WL 1938354, at \*3 (5th Cir. July 15, 2025).

- Lender's calculating maximum rates on commercial loans in Texas should take note, a simplified "principal x rate x term" calculation is not going to cut it.

**Texas/Commercial - Forbearance Fee** - In connection with a zero-interest commercial loan, a borrower was allowed to proceed with a usury claim where the lender charged a fee in exchange for allowing the borrower to delay repayment. Tammy Tran v. Tony Buzbee, Appellee, No. 01-23-00923-CV, 2025 WL 2470832 (Tex. App. Aug. 28, 2025).

- A useful reminder that usury applies to more than periodic interest. Any amount charged to make a loan or forebear repayment of a loan may trigger usury issues.
- For those dealing with contingent financing transactions, the court helpfully stated that usury requires (1) a loan, (2) an absolute obligation to repay the principal, and (3) greater compensation than allowed by law for the use of money.

**Utah/Commercial - Rate Unconscionability** - An interest rate of 146.44% was not unconscionable under Utah law in connection with a commercial loan. The court noted that, to date, only an annual rate of 1,200% has been found to be unconscionable. Cap. Stack UT LLC v. Reddy, 2025 UT App 103 (July 10, 2025).

- A helpful case to get a sense of what may be permissible under Utah's usury law.

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7037 Ridge Road, Suite 300, Hanover, Maryland 21076  
410.684.3200

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