



U.S. SUPREME COURT DENIES CASHCALL PETITION

On May 4th, the U.S. Supreme Court denied CashCall, Inc.'s petition for certiorari in *CashCall v. Morrissey*, a case in which the West Virginia Supreme Court of Appeals affirmed that CashCall, a non-bank servicer, was the "true lender" in a bank loan program because CashCall had the "predominant economic interest" in the loans. See our ALERT of April 30, 2015.

Appeals to the U.S. Supreme Court are not automatic. Parties must convince the Court to grant review by arguing not only why the lower court's ruling is wrong, but also the importance of having the Court address a particular legal issue. CashCall had asked the Court to determine whether the Federal Deposit Insurance Act (FDIA) preempts the application of state interest rate limitations to loans that were underwritten and originated by a federally insured state-chartered bank, when a non-bank acquires a predominant economic interest in the loans. The Attorney General of West Virginia filed a brief in opposition. In their briefs, the parties disagreed on (i) the existence of a court split over whether and when Section 27 of the FDIA preempts a state's usury law, (ii) the importance of establishing a standard to determine the "true lender" in bank loan programs and (iii) whether *CashCall v. Morrissey* was the best case to render the Court's first opinion interpreting Section 27 of the FDIA.

Industry members are left to speculate on the Court's denial and ponder the implications of the *CashCall* case. □

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