

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DAVID TOURGEMAN,
Plaintiff-Appellant,

v.

COLLINS FINANCIAL SERVICES, INC.,
DBA Precision Recovery Analytics,
Inc., a Texas corporation; NELSON &
KENNARD, a partnership; PARAGON
WAY, INC.; COLLINS FINANCIAL
SERVICES USA, INC.,
Defendants-Appellees,

and

DELL FINANCIAL SERVICES, LP,
Defendant.

No. 12-56783

D.C. No.
3:08-cv-01392-
CAB-NLS

ORDER

Filed October 31, 2014

Before: Jerome Farris and Andrew D. Hurwitz, Circuit
Judges, and Paul L. Friedman, District Judge.*

* The Honorable Paul L. Friedman, District Judge, U.S. District Court
for the District of Columbia, sitting by designation.

ORDER

The opinion filed June 25, 2014 is **AMENDED** as follows:

1. At page 4 of the slip opinion, the following sentence is deleted:

We now reverse and hold that judgment should be entered for Tourgeman.

and replaced with:

We now reverse.

2. At page 24 of the slip opinion, the following sentence is deleted:

Accordingly, the appellant is entitled to judgment on his claims against Paragon Way under subsections 1692e(2) and e(10).

3. At page 30 of the slip opinion, the following sentence is deleted:

These conclusions are sufficient to warrant both reversal of the judgment granted to Nelson & Kennard and entry of judgment in favor of Tourgeman.

and replaced with:

These conclusions are sufficient to warrant reversal of the judgment granted to Nelson & Kennard.

4. At pages 30–31 of the slip opinion, the following sentence is deleted:

For the foregoing reasons, we conclude that the judgment of the district court granting judgment to Collins, Paragon Way, and Nelson & Kennard must be reversed, and that judgment should instead be entered for Tourgeman against Paragon Way and Nelson & Kennard.

and replaced with:

For the foregoing reasons, we conclude that the judgment of the district court granting judgment to Collins, Paragon Way, and Nelson & Kennard must be reversed.

5. At page 31 of the slip opinion, the following sentence is deleted:

We express no view regarding whether Tourgeman is entitled to judgment against Collins itself, as Tourgeman’s claims against that entity were based on a theory of vicarious liability that was neither decided by the district court nor briefed on this appeal.

With this amendment, Judges Hurwitz and Friedman have voted to deny the petition for rehearing. Judge Farris did not

vote. Judge Hurwitz voted to deny the petition for rehearing en banc, Judge Friedman so recommends, and Judge Farris made no recommendation.

The full court has been advised of the petition for rehearing en banc and no active judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing and petition for rehearing en banc, filed August 13, 2014, are **DENIED**. No further petition for rehearing and/or petition for rehearing en banc may be filed.