No. 24-1326

IN THE Supreme Court of the United States

IQ DATA INTERNATIONAL, INC.,
Petitioner,

v.

RYAN SIX,
Respondent.

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

SUPPLEMENTAL BRIEF OF PETITIONER

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QUESTION PRESENTED

1. Whether the receipt of a written letter constitutes an intrusion upon seclusion such that the recipient has suffered a cognizable injury in fact sufficient to confer Article III standing in a case brought for an alleged violation of the Fair Debt Collection Practices Act?

PARTIES TO THE PROCEEDING

All parties to the proceeding are identified in the caption.

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

100% of the stock in Petitioner IQ Data International, Inc. is owned by TS Holdings, Inc., which is a wholly owned subsidiary of American Bankers Insurance Group, Inc., which is wholly owned by its parent company, Assurant, Inc., which issues stock and is traded on the New York Stock Exchange.

STATEMENT OF RELATED PROCEEDINGS

The proceedings directly related to this petition are:

U.S. District Court for the District of Arizona:

Six v. IQ Data International, Incorporated, No. 2:22-cv-00203-MTL (May 18, 2023)

U.S. Court of Appeals for the Ninth Circuit:

Six v. IQ Data International, Incorporated, No. 15887 (Feb. 24, 2025), *reh'g denied* (Mar. 28, 2025)

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SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

Petitioner IQ Data International, Inc. ("IQ Data" or "Petitioner") respectfully submits the following Supplemental Brief in support of its Petition for a Writ of Certiorari to review the opinion of the United States Court of Appeals for the Ninth Circuit.

INTRODUCTION

This Court should grant review because courts around the country, including federal district and appellate courts, are conflicted as to what *kind* of alleged unwelcome communication is sufficient to constitute an intrusion upon seclusion for purposes of establishing an intangible harm necessary to meet the injury-in-fact requirement for Article III standing. The conflicting opinions issued by numerous courts confirm there are two divergent views of this analysis requiring this Court's guidance.

NEW AUTHORITY SUPPORTS THE COURT'S REVIEW

A. The Eighth Circuit's Recent Decision in *Denmon v. Kansas* Further Supports the Need for this Court's Review

1. The Eighth Circuit Recently Held that a Single Letter Does Not Rise to an Injury Sufficient to Confer Standing under the FDCPA

On August 13, 2025, the United States Court of Appeals for the Eighth Circuit held that a consumer lacked standing to bring an FDCPA claim based on receipt of one unwanted letter. *See Denmon v. Kansas Counselors, Inc.*, Case No. 23-3612, 2025 WL 2329189 (8th Cir. August 13, 2025).

Denmon's Amended Complaint alleged that she suffered a concrete injury from the receipt of one unwanted letter that "resulted in a direct invasion of [her] legally protected right to be left alone and her right to privacy…all of which upset, distressed and alarmed Ms. Denmon." *Id.* at *2. In the proceeding below, the United States District Court for the Western District of Missouri granted the consumer's motion for summary judgment on her FDCPA claim, holding that the alleged invasion of her legally-protected right to be left alone and her right to privacy was a concrete and particularized harm that is closely related to the tort of invasion of privacy and intrusion upon seclusion. *Id.*

On appeal, the Eighth Circuit disagreed explaining that the concrete harm inquiry is fact specific and the district court failed to consider the fact-intensive issue of whether the context of the communications at issue were actually analogous to the common law tort of intrusion upon seclusion. *Id.*

Upon conducting that required analysis, the Eighth Circuit found that Denmon lacked Article III standing to assert her FDCPA claim. The Court noted that, in the summary judgment proceedings, the only evidence Denmon offered regarding her injury was that she received one unwanted letter in the mail and that the letter sought to verify the debt she owed, offered assistance, and notified her that the defendant debt collector would resume collection activities. *Id.* There were no further communications between the parties. *Id.*

The Court held that the challenged letter did not constitute a valid basis for a § 1692c(c) claim, recognizing that the letter was prompted by the consumer's conduct in disputing the debt and effectively requesting verification of the same. *Id.*

Further, the Court explained:

> [E]ven if the § 1692c(c) claim is not facially invalid, Denmon lacks Article III standing under the governing *TransUnion* standards because Denmon did not suffer an intangible injury that has a "close relationship to harms traditionally recognized as providing a basis" for an intrusion upon seclusion lawsuit. 594 U.S. at 425, 141 S.Ct. 2190. The traditional elements of the invasion-of privacy

> tort known as intrusion upon seclusion are set forth in Restatement (Second) of Torts § 652B:
>
> > One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.

Id. at 4 (citing Restatement (Second) of Torts § 652B).

The Court highlighted that the challenged letter was sent in response to the consumer's conduct – i.e. submitting a dispute challenging the validity of the debt. Like the plaintiff in the instant case, the consumer *invited* the response. *Id.*

Moreover, the Eighth Circuit explained:

> "[T]here is nothing inherently bothersome, intrusive, or invasive about a collection letter delivered via U.S. Mail," *Pucillo*, 66 F.4th at 640, particularly when the letter was mandated by the FCRA for Denmon's benefit. Even if unwanted, how could a reasonable jury find that this single, invited response "would be highly offensive to a reasonable person" who had not paid a valid debt for many years? "[R]eceipt of a letter alone may not be an intrusion that 'would be highly offensive to a reasonable person.' " Bassett, 60 F.4th at 1136 n.2, citing Restatement (Second) of Torts § 652B

> (1977). In the summary judgment proceedings, Denmon provided no evidence of intentional intrusion. "[A] defendant with a good faith belief that the conduct is authorized will not be liable for intrusion." Intrusion Form of Privacy – Defining Intrusion, 1 Rights of Publicity and Privacy § 5:89 (2d ed), and cases cited.

Id. at *4.

The Court held that Denmon provided no evidence of two of the main elements of intrusion upon seclusion, and therefore did not suffer a harm that has a sufficiently close relationship to this privacy tort. "Without an intentional intrusion and conduct that is highly offensive to a reasonable person, there is no tort." *Id.* at *5.

Holding that Denmon lacked standing to assert her FDCPA claim, the Eighth Circuit vacated the judgment of the district court and remanded the case with instructions to dismiss the Amended Complaint.

2. The Eighth Circuit's Decision in *Denmon* Undermines the Ninth Circuit's Holding in the Instant Case

The facts in the *Denmon* case are very similar to those alleged in this instant case. Both plaintiffs brought claims under FDCPA § 1692c for letters received *in response* to conduct *initiated* by them. Denmon, herself, disputed the validity of her debt, thus triggering the debt collector's statutory obligation to provide verification. And here, Six, himself, disputed the debt and sought validation of the same.

While the Ninth Circuit's decision provided a very cursory analysis of standing based on harms analogous to historical common law torts, it failed to consider the context of the communications at issue in this specific case. In finding that the single letter was an unwanted communication, it effectively ignored the fact that the challenged letter was in response to Six's own conduct requesting validation of a disputed debt. Had the Ninth Circuit appropriately considered the context of the communications in the context of what constitutes or is analogous to the historical common law tort of an intrusion upon seclusion, it likely would have reached the same conclusion as the Eighth Circuit did in *Denmon* -- one letter, especially one that was specifically requested by the consumer, does not rise to the level of "highly offensive" that is required to assert an injury akin to intrusion upon seclusion.

The well-reasoned analysis in *Denmon* effectively conflicts with and thus undermines the Ninth Circuit's decision in Six.

3. The Dissenting Opinion in *Denmon* Underscores the Ongoing Lack of Clarity in the *Kind* versus *Degree* Distinction

While the Eighth Circuit's majority opinion is well-reasoned and correctly applies this Court's precedent, the dissenting opinion highlights the ongoing confusion across the circuits regarding the distinction between *kind* and *degree* when considering standing based on historical common law analogues.

Without considering whether Denmon's receipt of the unwanted letter was highly offensive – the standard for asserting a harm analogous to intrusion upon

seclusion, dissenting Circuit Judge Kelly stated that the "receipt of an unwanted letter is intrusive, even if minimally so; after all it is unwanted." *Id.* at *6. Judge Kelly went on to opine that, "in determining whether Denmon's harm is of a similar kind to intrusion upon seclusion, the intent of the defendant and the degree of harm are not relevant." *Id.*

But this ignores the fact that the common law tort of intrusion upon seclusion's core injury inquiry is whether the alleged intrusion is "highly offensive" to a reasonable person.

Recognizing that courts have drawn a distinction between kind versus degree in the context of evaluating standing based on harms analogous to common law torts like intrusion upon seclusion, it is clear that the circuits need this court's guidance. Specifically, they need guidance on how to evaluate whether an alleged injury does meet the "highly offensive" threshold for constituting a harm analogous to intrusion upon seclusion without veering into an analysis of degree rather than kind.

4. The Eighth Circuit's Decision Furthers the Circuit Split on the Issue of Analyzing Standing based on Common Law Analogues

The Ninth Circuit's decision in Six already conflicted with decisions from the Fifth and Seventh Circuits. *See Perez v. McCreary, Veselka, Bragg & Allen, P.C.*, 45 F.4th 816 (5th Cir. 2022); *Pucillo v. National Credit Systems, Inc.*, 66 F.4th 634, 641 (7th Cir. 2023). Now, with the addition of the Eighth Circuit's recent decision in *Denmon*, the circuit split is even deeper

with a three to one ratio. As detailed in the Petition, the Seventh Circuit held that a letter delivered to a mailbox was not the kind of highly offensive intrusion contemplated by the historical tort of intrusion upon seclusion. *Pucillo*, 45 F. 4th 641. Similarly, the Fifth Circuit has denied standing based on the receipt of an unwelcome debt collection letter, holding that Congress has not elevated the receipt of a single unwanted letter to the status of a concrete injury for purposes of an FDCPA claim. *Perez*, 45 F.4th at 822.

The Eighth Circuit joins the Fifth and Seventh Circuits in holding that the receipt of an unwanted debt collection letter is not the *kind* of harm analogous to the historical common law tort of intrusion upon seclusion. These three circuit decisions are irreconcilable with the Ninth Circuit's decision in *Six* and the split between circuits is now wider than ever. As the Petition makes clear, this issue is recurring all over the country and definitive guidance is necessary to ensure that the FDCPA is enforced in a consistent and uniform manner, regardless of where consumers or debt collectors are located. Accordingly, Petitioner respectfully requests this Court review the Ninth Circuit's decision and provide critical guidance on this frequently occurring issue.

CONCLUSION

This case warrants Supreme Court review. The Eighth Circuit's recent decision in *Denmon v. Kansas* further highlights the deep circuit split on a recurring issue of national significance, including inconsistent application of the constitutional standing analysis which has and will continue to result in incongruent court access across the country. This Court should

grant certiorari and review the decision of the Ninth Circuit.

Respectfully submitted,

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