The Hudson Cook Usury Monitor – A Publication of Recent Usury and Finance Charge Cases – Fall 2025

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For 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 towards the end of winter.

California/Consumer – Small Loan Rates – In an administrative action, the California Commissioner of Financial Protection and Innovation fined a California Financing Law lender for charging excessive rates in violation of the 36% rate limit applicable to loans of between $2,500 and $10,000. Apoyo Financiero Inc., Respondent, 2025 WL 2998844.

- This action is notable as a reminder of how important it is to remain compliant with usury requirements. The Commissioner imposed a hefty $1,000,000 penalty, along with strict consumer redress obligations.

California/Commercial – Real Estate Broker Usury Exemption – In an unpublished opinion involving several commercial real estate loans, the appellate court found that the state's usury limit did not apply to the loans because they were arranged by a licensed real estate broker. Under California law, there is an exception to the state's usury limit for a mortgage loan made or arranged by a licensed real estate broker. Williams v. Chisick, No. C099770, 2025 WL 3627512 (Cal. Ct. App. Dec. 15, 2025).

- The court provides a helpful discussion of what it means for a real estate broker to arrange a loan within the usury exemption. The case might also provide insight when considering the real estate broker exemption within the California Financing Law.

Colorado/Consumer – DIDMCA Opt Out – The Tenth Circuit removed an injunction preventing Colorado from enforcing its interest rate opt out under DIDMCA. The DIDMCA opt out allows Colorado to enforce its interest rate authority in connection with loans made by banks to Colorado borrowers. Nat'l Ass'n of Indus. Bankers v. Weiser, No. 24-1293, 2025 WL 3140623, at *1 (10th Cir. Nov. 10, 2025).

- This case is a big deal for banks and bank partners. The court's interpretation flies in the face of prior regulatory guidance regarding what it means for a bank's loan to be "made" in a particular state, finding that a loan is made where either the borrower or lender is located. The Supreme Court's overruling of Chevron deference is starting to be felt in a negative way.

Michigan/Commercial – Usury – The trial court denied a borrower's motion for judgment alleging that a $10 million loan secured by various pieces of real estate was subject to the state's criminal usury rate. The lender argued that the usury rate did not apply because of an exception for indebtedness of $100,000 or more where the bona fide primary security is a lien against real property other than a single-family residence. The borrower alleged that the usury exception did not apply because the collateral included one or more single-family residences. The court focused on the word "primary" within the exception, finding that a single-family residence could be part of the collateral, as long as it was not the primary collateral. Private Financing Alternatives, LLC, v. Walloon Lake Holdings, LLC, 2025 WL 3290636 (W.D. Mich. Nov. 26, 2025).

- The court also discussed additional exceptions applicable to commercial loans.

Mississippi/Commercial – Prejudgment Interest – The trial court awarded prejudgment interest of 18% in a contractual dispute involving a builder. The court noted that prejudgment interest is allowed from the date of breach at the contractual rate. ABC Supply Co., Inc. v. All In One Renovations LLC, 2025 WL 3022299 (N.D. Miss. Oct. 29, 2025).

- Although the case did not involve a usury claim, it does provide a helpful reminder of the importance of clear contract language. The court struggled a bit to decipher whether language allowing a "late payment charge of 1.5%" per month authorized prejudgment interest at that rate. The court also noted that attorneys' fees are not allowed unless authorized by contract.

New York/Commercial – Contingent Obligation – The trial court found that a purchase of future receivables was not a loan subject to the state's usury rate, where the purchaser paid an upfront purchase price in return for a weekly remittance of payments. The court noted that if a transaction is not a loan, usury does not apply, "however unconscionable the contract may be." True Bus. Funding LLC v. Sonata Constr. LLC, 2025 WL 2959310 (E.D.N.Y. Oct. 17, 2025).

- The court provided a useful breakdown of three elements used to determine if a transaction is an "absolutely repayable" loan or a contingent non-loan: (1) a reconciliation provision; (2) a finite term; and (3) recourse if the merchant declares bankruptcy.

New York/Commercial – Corporate Usury Defense – The trial court found that an agreement for the purchase and sale of future receipts was a disguised loan and voided the loan due to usury. The court found the agreement was structured to ensure the funder would be repaid in full. The court also found that New York law prohibiting a corporation from pleading usury does not apply to the state's criminal usury rate of 25%. Rowan Advance Grp. LLC v. DraftPros, LLC, 87 Misc. 3d 1215(A), 240 N.Y.S.3d 704 (N.Y. Sup. Ct. 2025).

- The court's recharacterization ruling is worth a read for funders engaging in revenue-based financing. New York's usury law is complex, with both civil and criminal usury rates. The corporate usury defense issue is worth noting for those who might bump up against the 25% rate limit.

New York/Commercial – Default Rate – The trial court strictly construed against the lender a note's default rate language. While few facts were given, the case appears to have involved a commercial loan. The note provided for 12% annual interest. Upon default, the language provided for a default rate equal to "the Lender's Prime Rate plus 5% per annum." The lender argued the default rate was in addition to the original interest (i.e., 12% plus 5% plus the Prime Rate. The court disagreed, finding the default rate was the Prime Rate plus 5%. Halgene Watch Ltd. v. Alex

Cap. Fund, LLC, 2025 WL 2798078 (N.Y. App. Div. Oct. 2, 2025).

- This is a good reminder that the language we use in a transaction is crucial. The lender argued that the intent should have been implicit, as it would have been absurd to contract for a default rate that was lower than the basic rate. Unfortunately, the "literal meaning" of the language, as the court found, is going to win over what one of the parties meant to say.

Oklahoma/Commercial – Prejudgment Interest & Compounding – In a case involving royalties on oil and gas wells, the appellate court upheld a trial court finding that prejudgment interest compounds until the proceeds and outstanding interest are paid. Cline v. Sunoco, Inc. (R&M), No. 23-7090, 2025 WL 3199871 (10th Cir. Nov. 17, 2025).

- While this case primarily focused on issues specific to oil and gas production, the court's discussion of prejudgment interest and compounding is interesting. For example, it was enlightening to learn that Oklahoma law actually defines the term "compound interest."

Texas/Commercial – Litigation Funding – In a case involving advances to fund antitrust litigation, the trial court found that the advance agreement was not a loan. Noting that usury would be an issue if the transaction was a loan, the court found that the agreement was not called a loan and expressly disclaimed any lender-borrower relationship. In Re Harvest Sherwood Food Distributors, Inc., 2025 WL 3178864 (Bankr. N.D. Tex. Nov. 13, 2025).

- While the court's discussion of the loan and usury issue was brief, it is interesting to note that the court seemed to largely rely on how the parties characterized the transaction in the agreement.

Washington/Commercial – Personal Guarantee – The appeals court found that Washington's usury limit and lender licensing requirement did not apply in connection with a commercial loan merely because an individual provided a guarantee. The court noted that "the Washington Supreme Court held that personal guarantees do not transform business loans into consumer loans subject to usury protections." Clausen v. WBL SPO I, LLC, 2025 WL 2908481 (Wash. Ct. App. Oct. 14, 2025).

- This was a commonsense ruling, as the loan was clearly a commercial loan. The borrower submitted a business financing application, the loan was made to a corporation, and the proceeds were intended for working capital, equipment, and inventory.