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8-21-2008

## Whitfield v. Radian Guaranty Inc

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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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No. 05-5017

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WHITNEY WHITFIELD;  
CELESTE WHITFIELD,  
on behalf of themselves and all others similarly situated,  
Appellants

v.

RADIAN GUARANTY, INC.

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. No. 04-cv-00111)  
District Judge: Honorable Juan R. Sanchez

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Argued January 19, 2007

On Remand from the United States Supreme Court  
June 9, 2008

Before: SLOVITER, RENDELL, and CUDAHY, \* Circuit Judges

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ORDER

This court filed its opinion in this matter on August 30, 2007 in which we reversed the District Court's entry of summary judgment for defendant Radian Guaranty, Inc., held that the notice requirement of the Fair Credit Reporting Act was applicable to Radian, and

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\* Hon. Richard D. Cudahy, United States Senior Circuit Judge for the United States Court of Appeals for the Seventh Circuit, sitting by designation.

directed a remand for a determination whether Radian had acted willfully. Whitfield v. Radian Guaranty, Inc., 501 F.3d 262 (3d Cir. 2007). On December 19, 2007, Radian filed a petition for a writ of certiorari in the Supreme Court. On February 5, 2008, the Supreme Court requested a response. On April 24, 2008, counsel for Whitney and Celeste Whitfield filed a motion in the United States District Court for the Eastern District of Pennsylvania to dismiss the action with prejudice pursuant to Fed. R. Civ. P. 41(a)(2). The same day, the District Court, pursuant to that motion, dismissed the action with prejudice.

On May 5, 2008, Radian Guaranty, Inc., noting the dismissal, filed in the Supreme Court a suggestion of mootness and motion to vacate this court's judgment. On June 9, 2008, the Supreme Court entered an order granting the petition for a writ of certiorari filed by Radian Guaranty, Inc., vacating the judgment of this court and remanding the case to this court with instructions to dismiss the case as moot.

Pursuant to the order of the Supreme Court, this case is hereby dismissed as moot.

By the Court,

/s/ Dolores K. Sloviter

Circuit Judge

Dated: August 21, 2008