Supreme Court Decides Fair Debt Collection Practices Act Case Involving Student Loans

February 28, 2013 - When someone decides to stop making payments on a loan, there is a reasonable chance that they will start getting calls from debt collectors. That's precisely what happened to Olivea Marx when she stopped making payments on her student loans. In her case, the lender hired General Revenue Corp. to collect. Marx accused the company of violating the Fair Debt Collection Practices Act (FDCPA) but in the end, Marx is the one who will wind up with all of the legal bills associated with her case.

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The FDCPA is a law that regulates debt collectors. Among other things, the law forbids the use of certain collection practices including vulgar language and the threat of law suits (unless the company actually intends to sue). It also gives the debtor the right to ask the company to halt all contact.

Marx accused General Revenue of FDCPA violations that included threats to sue, the threat of having her wages garnished and the threat of having her bank account drained. As a result of the accusation, the company offered to settle with her for $1,500. Unfortunately for Marx, she decided that she would simply ignore the offer and the case went to trial.

The judge hearing the case determined that Marx had failed to prove her case. He then awarded $4,500 in legal costs to General Revenue. Marx appealed the decision claiming that the company had acted in bad faith, had harassed her.

But the Supreme Court found that there was no need for the court to review the bad faith claims made by Marx and that the court had the authority to award legal costs to the prevailing party in a FDCPA lawsuit.

The bottom line here is that anyone bringing a law suit under the FDCPA really needs to consider the fact that if they lose their case, they could wind up having to foot all of the legal bills for the accused.

byJim Malmberg
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