

US Supreme Court Unanimously Refuses to Expand Fair Debt Collection Practices Act

June 13, 2017 - In a unanimous decision, the US Supreme Court has upheld language in the Fair Debt Collection Practices Act (FDCPA) that differentiates between "debt collectors" and "creditors." The law regulates the collection practices of third-party debt collectors - meaning companies that are hired by another company to collect on bad debts. But it places no such restrictions on the collection practices of creditors - meaning companies that loan money and then actually try to collect on those loans themselves when customers aren't paying their bill. Creditors actually own the debts that they are attempting to collect on.

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The FDCPA gives consumers a number of rights. Third party debt collectors have to stop trying to contact you if you tell them you don't want to hear from them. They can't threaten to sue you unless they actually intend to file a lawsuit. They can't harass you at work or notify your employer that you aren't paying your bills if you tell them not to. These are just a few of the regulations that debt collectors have to comply with.

But if a creditor is attempting to collect on a debt, most of the regulations faced by debt collectors don't apply. They can camp outside your home waiting to talk to you. They can talk to your neighbors, your boss and co-workers. They call you as often as they want.

The case, known as Henson v. Santander Consumer USA came about when four consumers attempted to file a class action suit against Santander. The company purchases bad debt. Specifically, it purchases unpaid car title loans from other creditors. Once it has purchased the loan, that means that Santander owns the debt and has become the creditor of record.

Attorney's arguing the case from the plaintiffs in the case tried to convince the court that Santander was skirting around the law and that the FDCPA only applied to original creditors; not those who purchase debt from other creditors. But the justices disagreed.

The opinion which was written by the newest member of the court, Neil Gorsuch, stated that expanding the law was not the purview of the Supreme Court and that any attempt to do so needs to originate in congress.

by Jim Malmberg

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