

PUBLICATION

SCOTUS Says Debt Purchasers Are Not Debt Collectors

Authors: Robert F. Tom

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Ricky Henson v. Santander Consumer USA Inc., 528 U.S. ____ (2017)

Debt purchasers attempting to collect on those debts across multiple jurisdictions now have uniform law that they are not debt collectors subject to the FDCPA. On June 12, in a unanimous decision, the United States Supreme Court cleared up a circuit split on whether a purchaser of a debt attempting to collect on that debt constitutes a "debt collector," subject to the Fair Debt Collection Practices Act (FDCPA). The district court and the Fourth Circuit sided with the respondent, Santander Consumer USA Inc. (Santander), and found that Santander did not qualify as a debt collector because it did not seek to collect debts "owed . . . another," but sought instead only to collect debts that it purchased and owned. The Supreme Court accepted the case in order to resolve the issue because other Circuit Courts faced with the same issue had ruled otherwise. Unsurprisingly, the Supreme Court looked straight to the FDCPA's statutory text defining debt collectors to include those who seek to collect debts "owed . . . another." By its plain terms, the language focuses on third-party collection agents working for a debt owner and not on a debt owner seeking to collect debts for itself. "All that matters is whether the target of the lawsuit regularly seeks to collect debts for its own account or does so for 'another.'" The petitioners' primary argument was that the word "owed," in the past tense, meant the statute's definition of "debt collector" also encompassed anyone who regularly seeks to collect debts *previously* "owed . . . another," such that "debt collector" excludes loan originators but includes debt purchasers. Simply "as a matter of good grammar, let alone ordinary meaning," the Supreme Court disagreed and looked to, among other things, neighboring provisions of the FDCPA, which used "owed" to refer to present not past debt relationships. With the Supreme Court's recent ruling, lenders now have the comfort of knowing that their attempts to collect on debts, which they purchased but did not originate, cannot subject them to liability under the FDCPA.