

NCLC Calls on Congress to Restore Federal Protections Against Abusive Debt Collection

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WASHINGTON—Yesterday, in a decision authored by Justice Neil Gorsuch, the Supreme Court ruled in *Henson v. Santander Consumer USA, Inc.* that the Fair Debt Collection Practices Act (FDCPA)—the key federal law that prohibits late night debt collection calls, threats, harassment of neighbors, and contacts after the consumer tells the debt collector to stop—did not apply to Santander. Because Santander was collecting debts it bought from a different lender, the Supreme Court held that it did not qualify under one of the FDCPA's definitions of debt collector, which covers companies that regularly collect debts owed or due another.

“The Supreme Court did not address a separate definition of debt collector that looks at whether the company’s principal purpose is debt collection,” clarified **National Consumer Law Center (NCLC) staff attorney April Kuehnhoff**. “Debt buyers are still covered under the FDCPA if they meet the principal purpose test,” she added.

“Today’s decision is bound to lead to consumer confusion since consumers won’t know whether or not the FDCPA protections apply to the debt buyer contacting them,” said **NCLC attorney Margot Saunders**. “The FDCPA is a 40-year-old law written before the rise of the modern debt buying industry. To ensure that consumers are fully protected from abusive debt collection activities, the onus is now clearly on Congress to amend the FDCPA to clarify that all debt buyers are debt collectors covered by the statute. This will not only protect consumers but also prevent a race to the bottom as debt buyers move to restructure their companies in an attempt to avoid having to comply with federal consumer protection statutes.”

National Consumer Law Center Resources

Debt Collection Rulemaking at the CFPB:

- Issue Brief: Consumer Debt Collection Facts, July 2016
- Group Comments to the CFPB re: Advance Notice of Proposed Rulemaking re: Debt Collection, Feb. 28, 2014
- Report: Debt Collection Communications: Protecting Consumers in the Digital Age, June 2015
- Report: Zombie Debt: What the CFPB Should Do about Attempts to Collect Old Debt, January 2015
- Report: Strong Medicine Needed: What the CFPB Should Do to Protect Consumers from Unfair Collection and Reporting of Medical Debt, Sept. 2014