
Obduskey v. McCarthy & Holthus LLP, No. 17-1307 (decided March 20, 2019)

Today, the Supreme Court unanimously held that a business engaged in only nonjudicial foreclosure proceedings is not a “debt collector” under the Fair Debt Collection Practices Act (FDCPA).

Background: In 2007, Obduskey bought a home with a loan secured by the property. About two years later, he defaulted. Wells Fargo Bank, N.A., hired the law firm McCarthy & Holthus LLP to execute a nonjudicial foreclosure on the home. The law firm sent Obduskey a letter related to the foreclosure. Obduskey said that the letter violated Section 1692g(b) of the FDCPA, which provides that a “debt collector” must “cease collection” until it “obtains verification of the debt” and mails a copy of the verification to the debtor. The law firm nonetheless initiated a nonjudicial foreclosure action, and Obduskey brought suit, contending that the firm violated the FDCPA’s verification procedure. The district court dismissed, holding that the law firm was not a “debt collector” within the meaning of the FDCPA. The Tenth Circuit affirmed.

Issue: Whether the FDCPA applies to businesses engaged in only nonjudicial foreclosure proceedings.

Court’s Holding: In an opinion issued by Justice Breyer, the Court unanimously held that the FDCPA does not apply. After reviewing the FDCPA’s text and legislative history, the Court concluded that “those who engage in only nonjudicial foreclosure proceedings are not debt collectors” subject to the requirements of Section 1692g(b).