Third Circuit Interprets "Debt Collector" to Include Debt Buyer

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Earlier this year, on February 22, 2019, a three-judge panel upheld a lower court ruling that debt-buying businesses could be liable for violations under the Fair Debt Collections Practices Act (the "FDCPA"). The FDCPA's purpose is to protect consumers from deceptive or unfair debt collection practices and applies to "debt collectors," which is defined as those engaged "in any business the principal purpose of which is the collection of any debts" and those "who regularly collect" debts "owed or due another." 15 U.S.C. § 1692(a). The underlying case involves Crown Asset Management, LLC ("Crown Asset"), which is a purchaser of charged-off consumer debt. After purchasing an account, if the consumer has not filed for bankruptcy, Crown Asset will refer the matter to a third-party service for collection or hires a debt collection law firm to file a lawsuit on its behalf. *Barbato v. Greystone Alliance, LLC*, 916 F.3d 260 (3d Cir. 2019). In 2014, Mary Barbato sued Crown Asset for violations under the FDCPA, due to Crown Asset's alleged failure to identify itself as a collection agency.

Crown Asset appealed a March 30, 2017 District Court's finding that Crown Asset was "acting as [a] 'debt collector'" because (1) it acquired debt when the debt was in default; and (2) Crown Asset's principal purpose was the "collection of 'any debts'" and, therefore, subject to FDCPA provisions, including identifying as a debt collector when communicating with consumers. *Barbato v. Greysone All., LLC*, No. 3:13-CV-2748, 2017 WL 1193731 (M.D.Pa. Mar 30, 2017).

During oral arguments before the Third Circuit, Crown Asset argued that the March 2017 ruling should be reversed under the United States Supreme Court's June 2017 holding in *Henson v. Santander Consumer, U.S.A*., wherein the U.S. Supreme Court held that federal debt collection laws do not extend to banks that purchase and service bad debt. Further, Crown Asset argued that its principal purpose was the acquisition, not the collection of debt. In *Henson*, the U.S. Supreme Court interpreted the "regularly collects" provision of the definition and held that "[a]ll that matters is whether the target of the lawsuit regularly seeks to collect debts for its own account or does so for 'another.'" 137 S.Ct. 1718, 1721-24 (2017).

In its decision, the panel rejected Crown Asset's arguments, finding that "an entity that has the 'collection of any debts' as its 'most important' 'aim' is a debt collector under the FDCPA and the plain language of the definition. The panel further found that Crown Asset misinterpreted *Henson* and that "[t]he Supreme Court went out of its way in Henson to say that it was not opinion on whether debt buyers could qualify as debt collectors" under certain provisions of federal debt collection law. The opinion went further to state that "[a]n entity qualifies under the definition if the 'principal purpose' of its 'business' is the 'collection of any debts.'" The panel ultimately concluded that Crown Asset qualified as a debt collector and that so long as "a business' *raison d'etre* is obtaining payment on the debts that it acquires, it is a debt collector."

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