

11-1175 MARX V. GENERAL REVENUE CORPORATION

DECISION BELOW: 668 F.3d 1174

LOWER COURT CASE NUMBER: 10-1363

QUESTION PRESENTED:

1. The Fair Debt Collection Practices Act (FDCPA) provides that, "[o]n a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs." 15 U.S.C. § 1692k(a)(3). Federal Rule of Civil Procedure 54(d) provides that, "[u]nless a federal statute, these rules, or a court order provides otherwise, costs-other than attorney's fees-should be allowed to the prevailing party."

The first question presented is whether a prevailing defendant in an FDCPA case may be awarded costs where the lawsuit was not "brought in bad faith and for the purpose of harassment."

2. The FDCPA defines "communication" as "conveying of information concerning a debt directly or indirectly to any person through any medium." 15 U.S.C. § 1692a(2). The statute generally bars debt collectors from communicating "in connection with the collection of any debt, with any person other than the consumer." *Id.* § 1692c(b). An exception to this bar allows a debt collector to "communicat[e]" with a debtor's employer solely to acquire "location information" about the debtor, but provides that a location information inquiry shall "not state that [the] consumer owes any debt" and not "indicate[] ... that the communication relates to the collection of a debt." *Id.* § 1692b.

The second question presented is whether the FDCPA's strict limits on communications with third parties cease to apply when a debt collector, contacting a third party in connection with the collection of a debt, does not indicate the reason for the communication.

GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 5/29/2012