

**17-1307 OBDUSKEY V. McCARTHY & HOLTHUS LLP**

DECISION BELOW: 879 F.3d 1216

LOWER COURT CASE NUMBER: 16-1330

**QUESTION PRESENTED:**

Congress passed the Fair Debt Collection Practices Act (FDCPA) to "eliminate abusive debt collection practices by debt collectors." 15 U.S.C. 1692(e). Under the FDCPA, the term "debt collector" is defined as "any person\*\*\*who regularly collects or attempts to collect, directly or indirectly, debts owed or due\*\*\*another." 15 U.S.C. 1692a(6).

This case presents a clear and entrenched conflict regarding whether the FDCPA applies in the foreclosure context. In the decision below, the Tenth Circuit, siding with the Ninth Circuit, held that non-judicial foreclosures are not covered by the FDCPA; in doing so, the panel acknowledged the issue has "divided the circuits," and it expressly rejected the "contrary position" of multiple courts of appeals and state high courts. This holding was the sole basis of the decision below, and it arises on the precise fact-pattern that has generated extensive "confusion" and hundreds of conflicting decisions. This case is the perfect vehicle for resolving the widespread disagreement over this important issue.

The question presented is:

Whether the FDCPA applies to non-judicial foreclosure proceedings.

CERT. GRANTED 6/28/2018