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ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[Caren Enloe](#) leads Smith Debnam's consumer financial services litigation and compliance group. In her practice, she defends consumer financial service providers and members of the collection industry in state and federal court, as well as in regulatory matters involving a variety of consumer protection laws. Caren also advises fintech companies, law firms, and collection agencies regarding an array of consumer finance issues. An active writer and speaker, Caren currently serves as chair of the Debt Collection Practices and Bankruptcy subcommittee for the American Bar Association's Consumer Financial Services Committee. She is also a member of the Defense Bar for the National Creditors Bar Association, the North Carolina State Chair for ACA International's Member Attorney Program and a member of the Bank Counsel Committee of the North Carolina Bankers Association. Most recently, she was elected to the Governing Committee for the Conference on Consumer Finance Law. In 2018, Caren was named one of the "20 Most Powerful Women in Collections" by *Collection Advisor*, a national trade publication. Caren oversees a blog titled: [Consumer Financial Services Litigation and Compliance](#) dedicated to consumer

Seventh Circuit Holds Debt Buyer's Feet to the Fire for its Attorney's Miscues

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As a general rule, a principal may only be held vicariously liable for the acts of its agent where it had actual control over the conduct. But what if the principal is a debt buyer and its attorneys violate the FDCPA? A recent opinion by the Seventh Circuit holds that debt buyers are strictly liable for the FDCPA violations of their attorneys and other vendors. In *Janetos v. Fulton Friedman & Gullace, LLP*, a debt buyer hired a law firm to collect on accounts where the debt buyer had already obtained a judgment. The initial demand letters sent out by the law firm did not comply with 15 U.S.C. §1692g(a)(2) in that the letters failed to identify clearly the current creditor or owner of the debt. The consumers filed suit against both the law firm and the debt buyer (current creditor) under the FDCPA and alleged that the debt buyer was vicariously liable for the acts of its lawyers.

The debt buyer contended that it could not be held vicariously liable for the letters the law firm drafted and sent. The court disagreed and in doing so joins the Ninth and Third Circuits in holding that because the debt buyer was itself a debt collector subject to the FDCPA, it is responsible for FDCPA violations committed by others acting on its behalf. *Janetos v. Fulton Friedman & Gullace, LLP*, C.A. No. 15-1859, 2016 U.S. App. LEXIS 6361, *18 (7TH Cir. Apr. 7, 2016); see also *Pollice v. National Tax Funding, L.P.*, 225 F.3d 379, 404-06 (3d Cir. 2000); *Fox v. Citicorp Credit Services, Inc.*, 15 F.3d 1507, 1516 (9th Cir. 1994). According to the court, "[w]e think it is fair and consistent with the Act to require a debt collector who is independently obliged to comply with the Act to monitor the actions of those it enlists to collect debts on its behalf." *Id.* at *19. The opinion is troublesome in that the court expressly rejects any argument requiring a show of control by the debt collector over the specific activity alleged to violate the FDCPA. It, therefore, appears that, at least in the Seventh Circuit, debt buyers will be held strictly liable for the FDCPA actions of their attorneys and other vendors.

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