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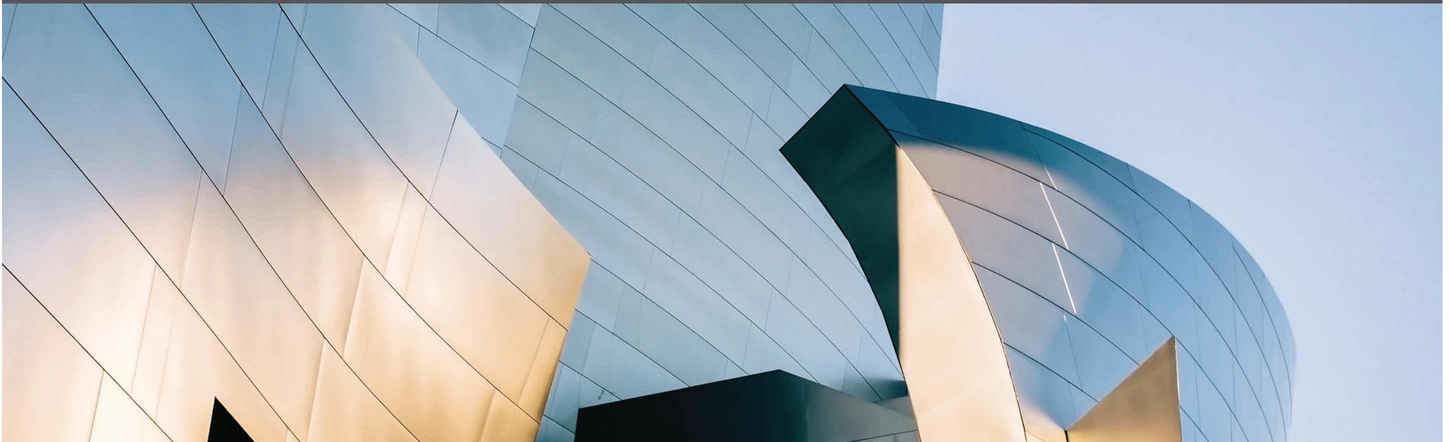

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U.S. Supreme Court Rules Statute of Limitations for FDCPA Claim Runs One Year from Alleged Violation, Not Discovery

The Supreme Court of the United States ("Supreme Court") recently affirmed the Third Circuit's decision holding Fair Debt Collection Practices Act ("FDCPA") claims are subject to a one-year statute of limitations from the date of an alleged violation and rejecting the Fourth and Ninth Circuit's adoption of a broad "discovery rule." However, debt collectors should take note that equitable tolling principles may still apply in certain circumstances.

On December 10, 2019, in ***Rotkiske v. Klemm,*** --- S. Ct. --- (2019), the Supreme Court issued an opinion holding that the one-year statute of limitations under the FDCPA accrues when a violation of the FDCPA occurs, not when that violation is discovered by the consumer. The Justices ruled 8-1 in the case, with Justice Thomas writing the opinion and Justice Sotomayor concurring. Justice Ginsburg filed a dissent, which would have remanded the case back to the district court to re-review the consumer's separate allegations of equitable tolling of the statute of limitations.

SUMMARY OF FACTS

In 2009, respondent Klemm & Associates ("Klemm") sued petitioner Kevin Rotkiske ("Rotkiske") in state court to enforce a credit card debt, which was allegedly beyond Pennsylvania's statute of limitations for enforcement ("2009 Action"). Klemm issued service of process to an address where Rotkiske did not live, which Klemm allegedly had reason to know was inaccurate. An unknown individual accepted service on behalf of Rotkiske. Ultimately, Klemm obtained a default judgment against Rotkiske based on this return of service. Rotkiske was unaware of the default judgment against him until 2014, when his mortgage loan application was denied based on this default judgment.

DISTRICT COURT'S AND THIRD CIRCUIT'S DECISION

Within 10 months of discovering the 2009 Action, Rotkiske filed suit against Klemm for violating the FDCPA. Rotkiske asserted that Klemm violated the FDCPA by filing the 2009 Action, which was time-barred. Subsequently, Rotkiske amended his complaint to allege that the one-year statute of limitations under section 1692k(d) of the FDCPA should be equitably tolled since the improper service of process in the 2009 Action was designed to conceal Klemm's violation against Rotkiske. Klemm filed a motion to dismiss the action as untimely based on section 1692k(d) of the FDCPA, which states that "[a]n action to enforce any liability created by this subchapter may be brought . . . within one year from the date on which the violation occurs." The district court dismissed the case, finding that (i) section 1692k(d) contained no extension of time to ***discover*** a claim and (ii) the statute of limitations accrued in 2009 when the alleged violation occurred at the time of commencement of the 2009 Action.

Rotkiske appealed the district court's dismissal to the Court of Appeals for the Third Circuit, which affirmed the dismissal, holding the FDCPA's statute of limitations cannot be extended based on the consumer's discovery of the claim. Importantly, the Third Circuit held that Rotkiske did

not raise the separate issue of equitable tolling based on alleged fraudulent conduct by Klemm. Thereafter, Rotkiske petitioned for certiorari, but his petition again omitted any reference to equitable tolling for fraudulent conduct.

THE SUPREME COURT'S DECISION

In an 8-1 ruling, the Supreme Court held that the statute of limitations under the FDCPA begins to run "on the date the alleged FDCPA violation actually happened." In analyzing the plain language of 15 U.S.C. § 1692k(d), the Supreme Court noted that the language of the statute was unambiguous in choosing the ***occurrence*** of a violation as the starting point of the one-year limitations period, as opposed to discovery of the violation. The Supreme Court found that Congress had enacted other federal statutes around the time of the FDCPA containing specific provisions regarding the discovery or ripening of claims. As such, the Supreme Court reasoned that Congress knowingly omitted the discovery of a claim from the FDCPA's statute of limitations. Rather, once the violation occurs, the statute of limitations begins to run.

The Supreme Court considered Rotkiske's arguments, which conceded the actual wording of section 1692k(d), and refused to find that a general "discovery rule" applies to the FDCPA's statute of limitations. Specifically, Rotkiske argued that certain circuits had, as a matter of statutory construction, read into every federal statute a general "discovery rule," triggering the limitations period at the time a consumer knows, or should have known, of the potential violation. However, the Supreme Court expressly rejected this argument, calling it a "bad wine of recent vintage" and declined to apply this statutory construction to the FDCPA.

Notably, the Supreme Court's opinion overrules existing case law, such as the Ninth Circuit's decision in *Mangum v. Action Collection Serv., Inc.*, 575 F.3d 935 (9th Cir. 2009), holding "the general federal rule is that 'a limitations period begins to run when the plaintiff knows or has reason to know of the injury which is the basis of the action.'" *Mangum* at 940. Both the Ninth and the Fourth Circuits previously held that a general "discovery rule" is applicable to all federal statutes of limitation, including the FDCPA. Because the majority and dissenting opinions both rejected the application of a "discovery rule" to the FDCPA, *Mangum* and similar cases have no further precedential effect.

In issuing its opinion, the Supreme Court emphasized that its decision was limited to whether a general "discovery rule" should be read into the FDCPA's statute of limitations. The Supreme Court did not reach the merits of whether equitable considerations, such as fraud, would create separate grounds to apply equitable tolling to the statute of limitations. Specifically, the Supreme Court explained that Rotkiske's petition for certiorari and his prior appeal to the Third Circuit only requested a legal determination of whether the general "discovery rule" was applicable to the FDCPA, not any other equitable tolling principle. Accordingly, the Supreme Court refused to opine on issues not properly raised before it. Notably, Justice Sotomayor's concurrence emphasized that any fraud-specific equitable tolling principles were still recognized under long-standing case law.

THE LIMITED DISSENT

Justice Ginsburg issued a separate dissenting opinion, which would have reversed the Third Circuit's decision and remanded the case to the district court to explore Rotkiske's claims concerning Klemm's alleged fraudulent concealment of the 2009 Action. Despite the majority's holding and the Third Circuit's decision that Rotkiske failed to preserve any "equitable tolling" defenses, Justice Ginsburg found sufficient cause for the district court to explore this defense.. Despite the majority's holding and the Third Circuit's decision that Rotkiske failed to preserve any "equitable tolling" defenses, Justice Ginsburg found sufficient cause for the district court to explore this defense.

Although Justice Ginsburg reached a different conclusion about the ultimate outcome of the case, she agreed with the Majority that a general "discovery rule" does not apply to the FDCPA's statute of limitations and only claims for equitable tolling would be recognized to extend the statute of limitations.

CONCLUSION

This decision is a significant win for debt collectors because it limits their liabilities under the FDCPA based on a one-year statute of limitations from the occurrence of any potential violation, regardless of the federal jurisdiction in which they are doing business. Notably, however, the Supreme Court has emphasized that this ruling does not undermine the doctrine of equitable tolling, and similarly does not give debt collectors a license to engage in fraudulent conduct designed to keep consumers in ignorance of their rights until the one-year period expires. While this decision may lower the total number of viable FDCPA claims filed by consumers, businesses and individuals subject to the FDCPA should remain committed to complying with all aspects of the Act to avoid triggering liability.

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