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This Case Is Not Of Great Public Interest

A. The Court of Appeals, in rendering summary judgment, carefully applied Ohio's Borrowing Statute to the facts and evidence and correctly and unanimously determined that the cause of action on a Chase Bank credit card debt accrued in Delaware, because not only was the credit card contract formed in Delaware but Delaware was also the place where the Chase Bank had (1) located its payment processing center and (2) required the credit card holder to make payments there.

Moreover, the Court of Appeals correctly and unanimously concluded that Appellant First Resolution Investment Corp.'s ("FRIC") cause of action, which it purchased in 2008 containing no claims for periods before April 7, 2005, accrued after the effective date of Ohio's Borrowing Statute, *i.e.*, April 7, 2005.

Applying Minister Farmers Coop. Exchange Co., Inc. v. Meyer, 117 Ohio St.3d 459, 2008-Ohio-1259 ¶28, 884 N.E.2d 1056, the Court of Appeals correctly and unanimously held that it was improper to award 24% post-judgment interest when no contract had been adduced. And a majority of the Court of Appeals correctly concluded that claiming interest in excess of the statutory rate without producing or possessing a contract authorizing such excess interest violated both the Fair Debt Collection Practices Act ("FDCPA") and Consumer Sales Practices Act ("CSPA").

There is no Great Public Interest in reviewing an Appellate Court decision that was correctly decided and contains no error.

B. In lieu of applying the Ohio Borrowing Statute, Appellants want this Court to legislate a "*uniform*" rule that a cause of action on any credit card obligation brought in Ohio,

accrues in Ohio.¹ Appellants declare, “there is a need for a clear and uniform standard as to where a cause of action accrues against an Ohio consumer”² and “there is a need for a clear and uniform standard as to when a cause of action accrues against an Ohio consumer when there is no written agreement on this point.”³ [Emphasis added.]

These abstract propositions have no relation to the evidence actually presented to the trial court on motions for summary judgment.

There is no Great Public Interest in having this Court sit as a Super-Legislature to craft uniform rules in opposition to the limitation period selected by the General Assembly *via* Ohio’s Borrowing Statute; and this is especially true when the record contains no evidence that could support such judicial legislation.

C. If every case arising in “current difficult economic times” made a case one of Great Public Interest, this Court would undoubtedly be buried by all the cases arising every time Ohio suffers from a recession. And if a “widespread” practice or appliance justified declaring a case one of Great Public Interest, then one would think that every automobile accident case and every case involving children would automatically end up on this Court’s docket. But that can’t be the standard for what is of Great Public Interest.

Facts and Statement of the Case.

Introduction

In 2001, Sandra J. Taylor Jarvis (“Sandra”) received an invitation to make an offer in the form of a credit card application from a Delaware corporation, *viz.*, First USA (“1st USA”). Sandra mailed her offer, *i.e.*, the credit card application, to 1st USA’s corporate headquarters in Delaware where 1st USA accepted her offer. Sandra used the credit card from 2001 to May 5,

¹ Appellants’ Memorandum p. 5 at Proposition of Law No. 1.

² Appellants’ Memorandum p. 10.

³ Appellants’ Memorandum p. 10 - 11.

2004, when Sandra began suffering a series of debilitating strokes, which eventually required her to retire on social security disability.

After Sandra ceased using the credit card 1st USA was merged into Bank One. Eventually JP Morgan Chase (“Chase”) acquired Bank One.

This case involves Sandra’s Chase credit card account and the conduct of 4 debt collectors, of which one is a debt buyer⁴, in attempting to collect that account. It also involves the application of Ohio’s borrowing statute, R.C. §2305.03(B), and Minister Farmers Coop. Exchange Co., Inc. v. Meyer, 117 Ohio St.3d 459, 2008-Ohio-1259 ¶26, as well as the FDCPA, 15 U.S.C. ¶1692, *et seq.* and the CSPA, R.C. ¶1345.01 *et seq.* and the Ohio common law tort of abuse of process.

Chase Credit Card Account

While Sandra did not use the credit card after 2004, she continued to make payments on her account. In 2005 and 2006, each monthly Chase invoice indicated that Sandra was to send her payment to Chase’s payment processing center in Wilmington Delaware. And each Chase statement indicated that if a payment was not received in Wilmington Delaware by a date specified in the invoice, Sandra would be charged late payment fees.

As of April 7, 2005, which is the effective date of R.C. §2305.03, Sandra owed Chase a total of \$7,999.51 and she had a minimum payment due of \$632. Chase not only didn’t accelerate Sandra’s obligation under the account, but after April 7, 2005 Chase actually

⁴ The Federal Trade Commission (“FTC”) explains, “‘Debt buying’ refers to the sale of debt by creditors or other debt owners to buyers that then attempt to collect the debt or sell it to other buyers.” “The Structure and Practices of the Debt Buying Industry” [“Structure and Practices”] p. i (Jan. 2013), available at www.ftc.gov/os/2013/01/debtbuyingreport.pdf. The FTC has found, *id.* p. ii, that debt buyers purchase credit card debt for an “average price [of] 4.0 cents per dollar of debt face value.”

increased the amount of Sandra's cash advance limit from \$0 to \$2,100. After April 7, 2005 Chase continued to issue monthly invoices to Sandra indicating the minimum payment due and the total balance on the account.

After April 7, 2005, Sandra paid Chase \$1,150 on the account. Chase applied all these payments to past due amounts. In other words, Chase applied Sandra's payment of \$1,150 to completely pay and discharge the minimum payment due of \$632 as of April 7, 2005.

Chase continued to issue statements to Sandra until it wrote off the credit card account on Jan. 31, 2006. Sandra's last payment on the account was June 28, 2006.

On Feb. 25, 2008 Chase sold all of its *then existing* "rights, title and interest" in Sandra's account to a debt buyer, *viz.*, Unifund Portfolio A, LLC, as of "the file creation date of Feb. 13, 2008." On June 19, 2008 Unifund sold "all of its good and marketable title, free and clean [sic] of all liens, claims and encumbrances in and to" Sandra's Chase credit card account to another debt buyer, *viz.*, FRIC, a Nevada corporation. FRIC is a third tier subsidiary of Appellant First Resolution Management Corp., ("FRMC") a Canadian corporation.

Threats to Sue Followed by a Lawsuit.

More than 3 years after Sandra made her last payment to Chase, FRMC sent Sandra a letter threatening to sue her on the Chase credit card account. Thereafter Sandra received a letter from Appellant Cheek Law Offices, LLC, ("Cheek") also threatening to sue her on the Chase credit card account. And on Mar. 9, 2010, FRIC acting through Cheek and Appellant, Attorney Pari Hockenberry ("Hockenberry") sued Sandra on the Chase credit card account. FRIC's debt collection complaint, on its face, noted that Sandra had made her last payment on the Chase credit card account on June 28, 2006. Moreover, FRIC's complaint not only failed to attach a copy of a credit card agreement ("CCA") between Sandra and Chase but it also declared, "Any account records of [Chase] that are not attached are not attached because, upon information and

belief: (a) [FRIC] is not the original creditor and *does not have possession, custody or control of said records*; and/or (b) if this action is based upon a credit card account, statements were sent monthly by [Chase] to [Sandra] and are or were, in the possession, custody and control of [Sandra]; and/or (c) said records may be voluminous; and/or (d) *said records are not available to [FRIC] and/or may have been destroyed.*” Despite these admissions FRIC, Cheek, and Hockenberry demanded post-judgment interest at 24%.

Default Judgment and its Vacation.

Sandra never received the summons or complaint. Accordingly, she did not timely respond to FRIC’s debt collection complaint.

FRIC, Cheek, and Hockenberry proceeded, on May 12, 2012, to take a default judgment against Sandra for “\$8,765.37, plus accrued interest in the amount of \$8,067.51 through April 28, 2010, and further interest at 24.00% thereafter until the date of Judgment, plus future interest on this Judgment at 24.00% per annum plus the costs of this action.”

Shortly after the trial court sent Sandra the Civ.R. 58 notice that judgment had been taken against her, she retained counsel and, on June 28, 2010, moved to vacate the default judgment. On July 26, 2010, FRIC and Sandra stipulated that the default judgment should be vacated and set aside and the trial judge agreed.

Class Counterclaim.

On Aug. 26, 2010 Sandra filed her First Amended Class Counterclaim against FRIC, FRMC, Cheek and Hockenberry alleging violations of the FDCPA, the CSPA, and Ohio common law.

On Sept. 10, 2010, FRIC, acting through Cheek, dismissed its case against Sandra, without prejudice, pursuant to Civ.R. 41(A)(1)(a). The trial court then “realigned” the parties, declaring Sandra to be the plaintiff and FRIC, FRMC, Cheek, and Hockenberry to be defendants.

Summary Judgment

On June 22, 2010 the trial court denied Sandra's motion for summary judgment and granted the motions for summary judgment filed by the Appellants.

Appeal

On July 22, 2010 Sandra appealed the decision of the Summit County Common Pleas Court to the Ninth Appellate District. On Dec. 5, 2012, the Ninth District reversed the decision of the trial court and remanded this case for further proceedings.

Specifically, the Court of Appeals unanimously held that the cause of action on Sandra's Chase credit card account accrued in Delaware.⁵ And the Court unanimously held that the cause of action on Sandra's Chase credit card account accrued after the effective date of R.C. §2305.03(B).⁶ The Court noted that Delaware had a 3-year statute of limitations on contract actions.⁷ Accordingly, the Appellate Court concluded that FRIC's complaint against Sandra was time-barred before it was filed.⁸

Because the trial court had concluded that R.C. §2305.03(B) had no application to the case at bar, it did not address Sandra's claims under the FDCPA and the CSPA.⁹ Accordingly, the Court of Appeals remanded the case to the trial court so the trial court could address those claims as well as Sandra's abuse of process claim.¹⁰

In addition, the Court of Appeals majority held that FRIC, Cheek, and Hockenberry presumptively violated the FDCPA and the CSPA by filing a complaint and taking a default

⁵ Jarvis ¶¶29, 45.

⁶ Jarvis ¶¶35, 45.

⁷ Jarvis ¶17.

⁸ Jarvis ¶36.

⁹ The Jarvis Court did note that any violation of the FDCPA would constitute a violation of the CSPA. Jarvis ¶13. Moreover, the Jarvis Court explicitly noted that the CSPA applies "to debt collectors and to litigation activities." Jarvis ¶12.

¹⁰ Jarvis ¶¶36, 45.

judgment which awarded FRIC 24% post-judgment interest.¹¹ The Court specifically noted, “The defendants failed to attach the credit card agreement relevant to Ms. Jarvis’ account to either the complaint on the account pursuant to Civ.R. 10(D) or as an exhibit relevant to their motions for summary judgment or responses in opposition to Ms. Jarvis’s motion for summary judgment.”¹² The Jarvis Court relied on this Court’s decision in Minister, *supra* for the proposition that an invoice is not a contract that could be used to charge a debtor with interest in excess of the statutory rate.¹³

One judge dissented, arguing, “Under Ohio law, *a court will award interest at a higher-than-statutory rate only if it is explicitly provided in a written contract.* R.C. 1343.03(A). Accordingly, a mere demand for a higher rate of interest cannot be deemed a ‘false, deceptive, or misleading representation’ under Section 1692e of Title 15 of the United States Code.”¹⁴ [Emphasis added.] However, the dissent ignored the fact that the excess interest rate claim involved more than the mere filing of a debt collection complaint; FRIC, Cheek, and Hockenberry had moved for and obtained a default judgment awarding FRIC 24% interest. Contrary to the dissent’s view of the what trial courts do when confronted with a claim for interest in excess of the statutory rate, the trial court in the case at bar had, in fact, awarded 24% interest even though no contract was ever adduced to justify such an interest rate.

Because the trial court did not address Defendants’ claim that they were entitled to the benefit of the bona fide error defense set forth at 15 U.S.C. §1692k(c), the Court of Appeals remanded the case so the trial court could consider the application of that defense.

¹¹ Jarvis ¶41.

¹² Jarvis ¶38.

¹³ Jarvis ¶38.

¹⁴ Jarvis ¶49.

Response to Appellants' Propositions of Law

Appellants' Proposition No. 1: Absent an agreement otherwise, a cause of action against an Ohio consumer for breach of a credit card contract accrues in Ohio.

This proposition ignores the enactment of Ohio's Borrowing Statute.¹⁵ Appellants want this Court to ignore the General Assembly's determination that when a cause of action accrues in a foreign state, the foreign state's statute of limitations applies to all civil actions brought in Ohio as long as that foreign statute is shorter than Ohio's statute of limitations. R.C. §2305.03(B).

In lieu of applying the Ohio Borrowing Statute, Appellants want this Court to legislate a "uniform" rule that a cause of action on any credit card obligation brought in Ohio, accrues in Ohio.¹⁶

Appellants have invented "facts" out of whole cloth, none of which are in the record. Rather, the "facts" presented by Appellants are actually contradicted by the record evidence. For example:

Appellants contend, at Memo p. 7-8	But the <u>Jarvis</u> Court held:
"Jarvis lived in Ohio, used the credit card in Ohio, and decided to stop making payments in Ohio. Jarvis's breach occurred in Ohio, not Delaware. She was to perform in Ohio by making her payment, via telephone, internet portal or regular mail. She was not required to mail her payments to Delaware."	"Ms. Jarvis did not dispute that she resided in Ohio at all times relevant to this matter. However, the <u>defendants did not present any evidence to demonstrate where Ms. Jarvis primarily used her card, that she was in Ohio at the moment she decided not to pay amounts owed on her account, or that she could have made her payments in any way but by check to the payment address in Wilmington, Delaware.</u> " <u>Jarvis</u> ¶26 [Emphasis added.] On the other hand, <u>the evidence demonstrates</u> that Ms. Jarvis sent her credit card invitation to Delaware and that her offer was accepted in Delaware, thereby creating a contract in Delaware. Ms. Jarvis' obligation was to be performed by making payments on her account. Her performance was not completed merely by

¹⁵ Appellants' Memorandum p. 5-6.

¹⁶ Appellants' Memorandum p. 5 at Proposition of Law No. 1.

	depositing her check in the mail, but rather upon timely receipt of a valid check in Delaware. <u>Jarvis</u> ¶27. [Emphasis added.]
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This Court issued two decisions applying the pre-1965 version of Ohio's Borrowing Statute to contract actions. In each case this Court held that the cause of action accrued at the place the contract was to be performed. Payne v. Kirchwehm (1943), 141 Ohio St. 384, 25 Ohio Ops. 536, 48 N.E.2d 224, 313 U.S. 549, 61 S.Ct. 1120, 85 L.Ed. 1514, and Meekison v. Groschner (1950), 153 Ohio St. 301, 307, 41 Ohio Ops. 298, 91 N.E.2d 680, 683, 17 ALR2d 495.

The question presented in Payne was whether the Florida 5 year or the Ohio 15 year statute of limitations applied to notes executed in Florida which were *payable in Florida*.¹⁷ In Payne, there was a strong dissent arguing that the cause of action accrued in Ohio, not Florida, because the defendant could not be sued in Florida,¹⁸ however the Payne majority rejected that argument and held that the cause accrued in Florida because *it was to be paid in Florida*.¹⁹

In Meekison a note executed in Michigan was payable in Ohio. While residing in Michigan the Michigan makers decided not to pay the note.²⁰ The Ohio payee's assignee sued the makers in Ohio. The makers argued that Ohio's Borrowing Statute mandated application of Michigan's short statute of limitations. This Court held the action was governed by Ohio's statute, because the cause of action accrued at the place the note was payable. The Meekison Court, 153 Ohio St. at 306-307, 41 Ohio Ops. at 300, 91 N.E.2d at 683, reasoned:

the better reasoned authority and certainly logic support the view that the cause of action upon the note arose in Ohio. When the note was executed in Michigan and made payable six months after date at Napoleon, Ohio, no cause of action had arisen on it. It must be assumed that it was expected that the note would be paid and therefore there could be no cause of action until there was a default. Where was that default? *The Heaths were obligated to pay the note at Napoleon, Ohio. If it was not paid at Napoleon on its due*

¹⁷ Payne, 141 Ohio St. at 384, 25 Ohio Ops. at 536, 48 N.E.2d at 224.

¹⁸ Payne, 141 Ohio St. at 395-397, 25 Ohio Ops. at 540-541, 48 N.E.2d at 229-230.

¹⁹ Paragraph no. 1 of the syllabus in Payne, 141 Ohio St. at 384, 25 Ohio Ops. at 536, 48 N.E.2d at 224.

²⁰ Meekison, 153 Ohio St. at 303, 41 Ohio Ops. at 299, 91 N.E.2d at 681.

date, a default would occur at Napoleon and a cause of action would arise for the first time because of the default at Napoleon. It seems to us unassailable that the cause of action arose where the default occurred, and therefore the Ohio statute, Section 11221, governs [Emphasis added].

The logic and reasoning of Meekinson has been applied by other courts.²¹ For example, New York's high court, in interpreting its Borrowing Statute, ruled against a debt buyer that had purchased a credit card account from the bank that had issued it. The New York Court of Appeals ruled that the cause of action accrued in Delaware, the place where the consumer was to pay the bank. See, Portfolio Recovery Associates v. King (2010), 14 N.Y.3d 410, 927 N.E.2d 1059 which held:

Portfolio, as the assignee of Discover, is not entitled to stand in a better position than that of its assignor. We must therefore first ascertain where the cause of action accrued in favor of Discover. Here, it is evident that the contract causes of action accrued in Delaware, the place where Discover sustained the economic injury in 1999 when King allegedly breached the contract. *** Therefore, the borrowing statute applies and the Delaware three-year statute of limitations governs. [Emphasis added.]

Appellants' Proposition No. 2: Absent an agreement otherwise, a claim for breach of a credit card contract accrues when a consumer fails to make a required payment and subsequent insufficient payments do not cure the breach.

²¹ See:

California: Western Coal and Mining Co. (1946), 27 Cal.2d 819; McKee v. Dodd (1908), 132 Cal. 637, 93 P. 854.

Florida: Aviation Credit Corp. v. Batchelor, 190 So.2d 8, 11 (Fla. Dist. Ct. App. 1966), cert dismissed, *sub nom.* Batchelor v. Aviation Credit Corp., (1967), 198 So.2d 24.

Idaho: West v. Theis (1908), 15 Idaho 167, 96 P. 932.

Missouri: Great Plains Trust Co. v. Union Pacific R. Co. (8th Cir. 2007), 492 F.3d 986, 992; Great Rivers Co-op of Southeastern Iowa v. Farmland Indus., Inc. (S.D. Iowa 1996), 932 F.Supp. 302, 305, aff'd (8th Cir. 1997), 120 F.3d 893; In re Master Mortgage Inv. Fund, Inc. (W.D. Mo. 1993), 151 B.R. 513, 517.

New York: Snyder v. Madera Broadcasting, Inc., (E.D. N.Y. 1995), 872 F.Supp. 1191, 1197; Bank of Boston Int'l v. Arguello Tefel, 626 F.Supp. 314, 317 (E.D.N.Y. 1986).

Ohio: Jenkins v. United Collection Bureau (Dec. 2, 2011, N.D. Ohio Case No. 3:11 CV 1191)

Wyoming: Stanbury v. Larsen, 803 P.2d 349, 353 (Wyo. 1990); Baker v. First Nat'l Bank, 603 P.2d 397, 398 (Wyo. 1979).

Appellants have admitted that they have no evidence that Chase accelerated Sandra's credit card debt. See, U.S. Bank Natl. Assn. v. Gullotta (2008), 120 Ohio St.3d 399, 404-405, 2008-Ohio-6268 ¶¶30-31, 899 N.E.2d 987, 992 ("a breach of an installment contract by non-payment does not constitute a breach of the entire contract.") See also, Restatement 2nd Contracts §243(3) and Illustration 4.

As of the effective date of Ohio's borrowing statute, *i.e.*, April 7, 2005, Chase declared that Sandra's minimum payment due was only \$632. After April 7, 2005 and long before FRIC, in 2008 acquired any part of Chase's remaining claim against Sandra, Sandra paid \$1,150 to Chase and Chase applied her payments to past due amounts. FRIC's debt collection complaint only dealt with amounts due after the effective date of the Borrowing Statute because FRIC never purchased any claim for earlier periods.

Even if Sandra had breached her account with Chase, Chase accepted Sandra's payments, applying them to periods before April 7, 2005. Chase's application of Sandra's payments satisfied and discharged all claims for periods before the effective date of the Borrowing Statute. See Restatement 2nd Contracts, §259 and Comment *e*. Once Chase credited Sandra's post April 7, 2005 payments to past due amounts, FRIC, as an assignee,²² was bound by Chase's application of payments. Accordingly when Chase sold and assigned its remaining claim against Sandra, it did not sell and FRIC did not buy any claim for periods prior to the effective date of the Borrowing Statute.

The holding that FRIC's cause of action accrued after the effective date of Ohio's was

²² "Every law student knows that 'the assignee stands in the shoes of the assignor.'" E.A. Farnsworth, Contracts §11.8 (2d ed. 1990). Restatement 2nd of Contracts §336(1). In the case at bar Chase assigned its claim to Unifund in February 2008 and Unifund assigned its claim to FRIC in June 2008. See, Restatement 2nd Contracts, §336, Illustration 3.

predicated, in part, on Smither v. Asset Acceptance, LLC (Ind. App., 2010), 919 N.E.2d 1153.²³ Appellants object to the Jarvis Court's reliance on Smither. However, the Appellants urged the Jarvis Court to rely on Smither. If there be error in relying on Smither, Appellants invited such error and are now estopped from raising any issue with respect thereto. State v. Murphy (2001), 91 Ohio St.3d 516, 535, 2001-Ohio-112, 747 N.E.2d 765, 791.

Appellants' Proposition No. 3: A complaint for breach of a credit card contract may pray for a post-judgment interest rate that exceeds the statutory rate when there is evidence suggesting that the parties agreed to the higher rate.

This case involves more than the mere filing of a complaint. FRIC, Cheek, and Hockenberry, not only filed a complaint demanding interest in excess of the statutory rate but also filed a motion for default seeking the same. The trial court granted FRIC's motion even though no contract authorizing excess interest was presented. Further, FRIC's debt collection complaint admitted that FRIC (1) did not have a copy of a contract and (2) did not even have access to the contract.

While Appellants pay lip-service to the law, ("Pursuant to R.C. §1343.03, a party is not entitled to interest in excess of the statutory interest rate *absent a written agreement providing for such a rate.*"²⁴), they completely ignore the teaching of this Court in Minister Farmers Coop. Exchange Co., Inc., 117 Ohio St.3d at 464, 2008-Ohio-1259 ¶28, 884 N.E. 2d at 1061, which held that "that an invoice or account statement unilaterally stating interest terms does not meet R.C. 1343.03's requirement of a written contract." Despite this Court's clear ruling Appellants imply that an invoice²⁵ can justify the filing of a complaint seeking interest in excess of the statutory amount. Appellants declare, "there is a need for a clear and uniform standard as to the

²³ Jarvis ¶35.

²⁴ Appellants' Memorandum p. 12

²⁵ Once Appellants admit that there is no contract, aside from an invoice, what other evidence could "suggest" that the parties agreed to a rate of interest in excess of the statutory rate?

amount of post-judgment interest that may be prayed for in a complaint *when the credit card agreement is not available.*²⁶ Based on Minister, when the CCA is not available, the only rate of post-judgment interest that is permissible is the statutory rate.

Appellants' Proposition No. 4: The Ohio Consumer Sales Practices Act does not apply to bank assignees and their collection attorneys because there is no 'consumer transaction' or 'supplier'.

Appellants are 'Suppliers' because the collection of consumer debts is their principal business and the act of collecting a debt is a 'Consumer Transaction', as defined in the CSPA. See, Schroyer v. Frankel (6th Cir. 1999), 197 F.3d 1170, 1177; Celebrezze v. United Research, Inc. (9th Dist. Summit Cty. 1984), 19 Ohio App.3d 49, 481 N.E.2d 1260-1261 paragraph 3 of the syllabus. See also, Midland Funding, LLC v. Brent (N.D. Ohio 2009), 644 F.Supp.2d 961, 976-977 ("Courts view the OCSPA's reach to debt collectors as appropriate where the debt collector is not otherwise regulated as a bank. *** For the purposes of the OCSPA, Midland and MCM are suppliers." *** At 977, "the act of collecting a debt is considered a consumer transaction for the purposes of the OCSPA."); Evans v. Midland Funding LLC (S.D. Ohio 2008), 574 F.Supp.2d 808, 817.

The fact that Chase is not subject to the CSPA, does not exempt the Appellants from the reach of the statute. Lee v. Javitch, Block & Rathbone, LLP (S.D. Ohio 2007), 522 F.Supp.2d 945, 956, rev'd on other grounds, 601 F.3d 654 (6th Cir. 2010) (Debt collectors argue that because "Plaintiff's underlying debt is a bank credit card, the transaction at issue is exempted from OCSPA. The Court rejected this argument *** no definitive Ohio authority suggests that an assignee of a financial institution, an assignee whose only business is to collect past due or defaulted debt, is also entitled to the financial institution exemption. *** The OCSPA covers far

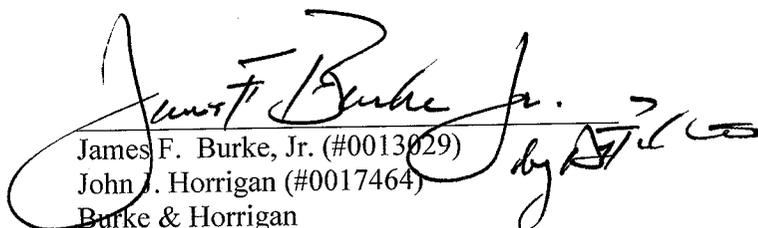
²⁶ Appellants' Memorandum p. 12.

more transactions, through its broad definition of 'supplier,' than does the FDCPA. The Ohio Legislature specifically exempted financial institutions from this statute, likely in recognition of the fact that banks are heavily regulated by other statutes and codes. A bank customer has other adequate remedies if a bank should engage in deceptive or unfair conduct in making a loan or issuing a credit card. But if the financial institution sells a past due or defaulted debt at a deep discount to an unrelated party, whose only business is debt collection, the sound policy for the financial institution exemption evaporates.”); Williams v. Javitch, Block & Rathbone, LLP (S.D. Ohio 2007), 480 F.Supp.2d 1016, 1024.

Conclusion

This case is not worthy of review. This case is not a case of Great Public Interest. Therefore this Court should refuse to accept this case for review.

Respectfully,



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Certificate of Service

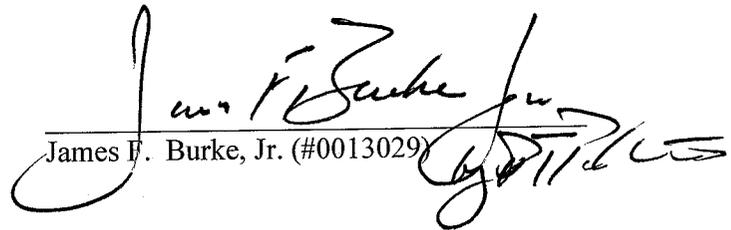
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