

U.S. Supreme Court Docket, October 2016 Term — Banking and Finance Law Cases

Granted Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
Henson v. Santander Consumer USA, Inc. Granted 1/13/2017	16-349 (9/16/2016)	Fair Debt Collection Practices Act	Oral argument—no date set Response due 10/17/2016 Time to file response extended to 11/16/2016 Brief of Santander Consumer USA filed 11/16/2016 Petitioner’s reply brief filed 11/30/2016 Distributed for conference of 1/6/2016 Distributed for conference of 1/13/2017	Whether a company that buys defaulted debts for collection purposes and collects the debts in its own name is a debt collector. Fourth Circuit opinion. Bad-debt buyers are not debt collectors, <i>Banking and Finance Law Daily</i> , March 24, 2016 .
Midland Funding, LLC v. Johnson Granted 10/11/2016	16-348 (9/14/2016)	Fair Debt Collection Practices Act	Oral argument—set for 1/17/2017 Response due 10/17/2016 Respondent’s briefs filed 9/19/2016 and 12/14/2016 Petitioner reply filed 9/21/2016 Distributed for conference of 10/7/2016 Petitioner’s brief filed 11/14/2016 Amicus curiae brief of DBA International, Inc. filed 11/18/2016 Amicus curiae briefs of the U.S. Chamber of Commerce, Resurgent Capital Services, L.P., ACA international, and NARC—National Creditors Bar Association filed 11/21/2016 Amicus curiae briefs of United States, National Association of Chapter Thirteen Trustees, G. Eric Brunstad, Jr., National Association of Consumer Bankruptcy Attorneys, and Public	Whether the Bankruptcy Code prevents a consumer from claiming that a debt collector violates the Fair Debt Collection Practices Act by filing a proof of claim on a time-barred debt, and whether such a filing violated the FDCPA. Eleventh Circuit opinion. Bankruptcy Code doesn’t block collection practices suit over stale debt, <i>Banking and Finance Law Daily</i> , May 25, 2016 .

			<p>Citizen filed 12/21/2016 Motion of Acting Solicitor General to participate in oral argument and for divided argument filed 12/21/2016; motion granted 1/6/2017 Petitioner’s reply filed 1/6/2017</p> <p>Oral argument transcript</p>	
<p>Shaw v. United States</p> <p>Granted 4/25/2016</p> <p>Reversed and remanded 12/12/2016</p>	<p>15-5991 (9/4/2015)</p>	<p>Bank Fraud</p>	<p>Oral argument—10/4/2016</p> <p>Brief of United States in opposition filed 3/8/2016 Petitioner’s reply brief filed 3/22/2016 Motion to proceed in forma pauperis granted 4/25/2016 Time to file joint appendix and petitioner’s brief on the merits extended to 6/27/2016 Time to file respondent’s brief on the merits extended to 8/15/2016 Petitioner’s brief filed 6/26/2017 Brief amicus curiae of National Association of Criminal Defense Lawyers filed 7/5/2016 Set for argument on Tuesday, Oct. 4, 2016, 7/16/2016 Brief of respondent United States filed 8/16/2016 Reply of petitioner Lawrence Eugene Shaw filed 9/14/2016</p> <p>Oral argument transcript</p> <p>Reversed and remanded 12/12/2016.</p>	<p>Whether proving a scheme to defraud a financial institution requires proving a scheme to “cheat” that institution. Ninth Circuit decision.</p>
<p>Expressions Hair Design v. Schneiderman</p> <p>Granted 9/29/2016</p>	<p>15-1391 (5/12/2016)</p>	<p>New York credit card “no surcharge” law</p>	<p>Oral argument—set for 1/10/2017</p> <p>Response due by 8/1/2016 Amicus brief of Marion B. Brechner First Amendment Project filed 6/7/2016 Amicus briefs of Albertsons LLC, Consumer Action et al., Cato Institute, First Amendment Scholars, and Scholars of</p>	<p>Whether New York’s credit card “no surcharge” law unconstitutionally restricts free speech under the First Amendment to the U.S. Constitution. Second Circuit opinion.</p> <p>Decision upholding constitutionality of New York’s credit card ‘no surcharge’ law clarified,</p>

			<p>Behavioral Economics filed 6/15/2016 Brief of respondent Eric T. Schneiderman, Attorney General of New York in opposition filed 8/1/2016 Distributed for conference of 9/26/ 2016 Reply of petitioners Expressions Hair Design, et al. filed 8/17/2016 Petitioner’s brief filed 11/14/2016 Amicus curiae brief of Institute for Justice filed 11/17/2016 Amicus curiae briefs of the United States, James Madison Institute, Retail Litigation Center, Cato Institute and Pacific Legal Foundation, Consumer Action, First Amendment Scholars and First Amendment Lawyers Association, Ahold U.S.A., Inc., CardX, LLC, United States Public Interest Research Group Education Fund, and Scholars of Behavioral Economics filed 11/21/2016 Motion of Acting Solicitor General to participate in oral argument and for divided argument filed 12/7/2016 Brief of respondent Eric Schneiderman (New York Attorney General) filed 12/14/2016 Amicus curiae briefs of Labor, Environmental, and Civil Rights Organizations, First Amendment Scholars, Credit Union National Association, National Governors Association, Action on Smoking and Health, International Center for Law & Economics and Scholars of Law and Economics, State of Florida, Public Citizen, Inc., and New York Credit Union Association filed 12/21/2016 Motion of Acting Solicitor General to participate in oral argument and for divided argument granted 11/28/2016 Petitioner’s reply filed 1/3/2017</p> <p>Oral argument transcript</p>	Banking and Finance Law Daily, Dec. 15, 2015.
Wells Fargo & Co. v. City of Miami	15-1112 (3/4/2016)	Fair Housing Act	<p>Oral argument—11/8/2016</p> <p>Amici brief by ABA filed 4/4/2016</p>	Whether a city suing a mortgage lender under the Fair Housing Act must plead more than an injury-in-fact to establish standing.

Granted 6/28/2016			<p>Amicus brief by U.S. Chamber of Commerce filed 4/4/2016 Response by City of Miami filed 5/20/2016 Reply by Petitioner Wells Fargo filed 5/31/2016 Distributed for conference 5/31/2016 Distributed for conference 6/20/2016 Distributed for conference 6/27/2016 Briefs amici curiae of The Chamber of Commerce of the United States of America, et al., American Bankers Association, et al., The Cato Institute, and DRI-Voice of the Defense Bar filed, 8/29/2016 Set for argument on Tuesday, Nov. 8, 2016, 9/2/2016 Petitioners' reply filed, 10/28/2016 Motion of Solicitor General to participate in oral argument and for divided argument granted, 10/28/2016</p> <p>Oral argument transcript</p>	<p>Eleventh Circuit opinion.</p> <p>Miami wins battle in predatory mortgage suit against nationwide banks, Banking and Finance Law Daily, Sept. 2, 2015.</p>
<p>Bank of America Corp. v. City of Miami</p> <p>Granted 6/28/2016</p>	15-1111 (3/4/2016)	Fair Housing Act	<p>Oral argument—11/8/2016</p> <p>Amici brief by ABA filed 4/4/2016 Amicus brief by U.S. Chamber of Commerce filed 4/4/2016 Response by City of Miami filed 5/20/2016 Reply by Petitioner Bank of America filed 5/31/2016 Distributed for conference 5/31/2016 Distributed for conference 6/20/2016 Distributed for conference 6/27/2016 Briefs amici curiae of The Chamber of Commerce of the United States of America, et al., American Bankers Association, et al., The Cato Institute, and DRI-Voice of the Defense Bar filed, 8/29/2016 Set for argument on Tuesday, Nov. 8, 2016, 9/2/2016 Petitioners' reply filed, 10/24/2016 Motion of Solicitor General to participate in oral argument and for divided argument granted, 10/28/2016</p>	<p>Whether a city suing a mortgage lender under the Fair Housing Act must show that it is within the “zone of interest” the act was intended to protect to establish standing. Eleventh Circuit opinion.</p> <p>Miami wins battle in predatory mortgage suit against nationwide banks, Banking and Finance Law Daily, Sept. 2, 2015.</p>

			Oral argument transcript	
Lightfoot v. Cendant Mortgage Corp. Granted 6/28/2016	14-1055 (2/17/15)	Federal court jurisdiction	Oral argument – 11/8/2016 Response due by 4/2/2015 Waiver of right to respond by Fannie Mae 3/30/2015 Distributed for conference of 5/1/2015 Amicus brief of The American Association for Justice filed 5/22/2015 Brief in opposition of Fannie Mae filed 6/22/2015 Motion of Solicitor General to participate in oral argument and for divided argument granted, 10/17/2016 Petitioners’ reply filed, 10/19/2016 Amicus brief of U.S. filed 5/23/2016 Fannie Mae’s supplemental brief filed 6/7/2016 Distributed for conference of 6/27/2015 Brief of petitioners Crystal Monique Lightfoot, et al. 8/16/2016 Briefs amicus curiae of United States, The American Red Cross, and The American Association for Justice filed 8/23/2016 Brief of respondent Fannie Mae filed 9/19/2016 Motion of Solicitor General to participate in oral argument and for divided argument granted, 10/17/2016 Petitioner’s reply filed 10/19/2016 Oral argument transcript	Whether federal courts have original jurisdiction over all suits to which Fannie Mae is a party. Ninth Circuit decision. Fannie Mae’s charter provides access to federal courts, Banking and Finance Law Daily, Oct. 3, 2014.

Pending Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
Jones v. Law Office of David Sean Dufek	16-863 (1/3/2017)	Fair Debt Collection Practices Act	Oral argument—no date set Response due 2/8/2017	Whether determining that a collection letter is deceptive, misleading, or confusing is a question of law or of fact; whether an attorney’s signature on a collection letter using the firm’s letterhead misrepresented that the attorney was acting as an attorney rather than a debt collector; and whether a disclaimer was sufficient to dispel such a misrepresentation. District of Columbia Circuit opinion . Debt collection letter made clear attorney was only debt collector, <i>Banking and Finance Law Daily</i> , July 27, 2016.
Nelson v. Midland Credit Management, Inc.	16-757 (12/12/2016)	Fair Debt Collection Practices Act	Oral argument—no date set Response due 1/12/2017 Deadline for response extended to 2/10/2017	Whether filing a bankruptcy court proof of claim on a debt known by a debt collector to be beyond the statute of limitations violates the Fair Debt Collection Practices Act and whether such an FDCPA claim would be implicitly repealed by the Bankruptcy Code. Eighth Circuit opinion . Bankruptcy claim for time-barred debt not debt collection act violation, <i>Banking and Finance Law Daily</i> , July 12, 2016 .
Meyers v. Oneida Tribe of Indians of Wisconsin	16-745 (12/7/2016)	Fair and Accurate Credit Transactions	Oral argument—no date set Response due by Jan. 9, 2017 Deadline for response extended to 2/8/2017	Whether Congress abrogated the sovereign immunity of an Indian tribe under the FACTA amendment to the FCRA by providing that any government may be liable for damages;

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		Act		<p>and whether an individual who receives a computer-generated cash register receipt displaying more than the last five digits of the individual's credit card number and the card's expiration date has suffered a "concrete injury" sufficient to confer standing. Seventh Circuit opinion.</p> <p>Consumer's proposed class action against Indian tribe for alleged FACTA allegations dismissed because the tribe was protected by sovereign immunity, <i>Banking and Finance Law Daily</i>, Sept. 8, 2016.</p>
DuBois v. Atlas Acquisitions, LLC	16-707 (11/23/2016)	Fair Debt Collection Practices Act	<p>Oral argument—no date set</p> <p>Response due by December 28, 2016</p> <p>Deadline for response extended to 1/27/2017</p>	<p>Whether filing a proof of claim in bankruptcy court constitutes debt collection activity and whether filing a proof of claim on a stale debt violates the Fair Debt Collection Practices Act. Fourth Circuit opinion.</p> <p>Filing bankruptcy proof-of-claim on time-barred debt not FDCPA violation, <i>Banking and Finance Law Daily</i>, Aug. 29, 2016.</p>
MoneyMutual, LLC, v. Riley	16-705 (11/22/2016)	Personal jurisdiction over Internet payday loan facilitator	<p>Oral argument—no date set</p> <p>Response due by December 28, 2016</p> <p>Time to respond extended to 2/10/2017</p>	<p>Whether a proximate causal nexus between a defendant Internet payday loan facilitator's contacts with Minnesota and a consumer's claim is required as part of the "relatedness test" for specific personal jurisdiction. Minnesota Supreme Court opinion.</p>
Gordon v. CFPB	16-673	CFPB	Oral argument—no date set	Whether CFPB Director Richard Cordray's

	(11/17/2016)	director's ratification of pre-confirmation actions	<p>Response due 12/22/2016 Deadline for response extended to 1/23/2017</p> <p>Amicus curiae briefs of Center for constitutional Jurisprudence, Cato Institute, and Chamber of Commerce of the United States filed 12/22/2016</p>	<p>ratification of his pre-confirmation actions was effective and whether there was federal court jurisdiction over a CFPB enforcement suit filed and litigated before his appointment was confirmed. Ninth Circuit opinion.</p> <p>Ratification solved problems created by Cordray recess appointment, <i>Banking and Finance Law Daily</i>, April 15, 2016.</p>
Owens v. LVNV Funding, LLC; Robinson v. eCast Settlement Corp.; Birtchman v. LVNV Funding, LLC	16-315 (8/26/2015)	Fair Debt Collection Practices Act	<p>Oral argument—no date set</p> <p>Response due 10/12/2016 Respondents' brief filed 9/20/2016 Respondents' supplemental brief filed 9/21/2016 Distributed for conference of 10/7/2016</p>	<p>Whether filing a bankruptcy court proof of claim on a debt known to be time-barred amounts to a misrepresentation that violates the Fair Debt Collection Practices Act. Seventh Circuit opinion.</p> <p>Filing a time-barred claim in bankruptcy not an FDCPA violation, <i>Banking and Finance Law Daily</i>, Aug. 11, 2016.</p>
Bondi v. Dana's Railroad Supply	15-1482 (6/6/2016)	Florida credit card "no surcharge" law	<p>Oral argument—no date set</p> <p>Response due by 7/8/2016 Time to file response to petition extended to 8/8/2016 Time to file response to petition extended to 8/15/2016 Brief of respondents Dana's Railroad Supply, et al. in opposition filed 8/15/2016 Reply of petitioner Pam Bondi, Attorney General of Florida filed 8/29/2016 Distributed for Conference of 9/26/ 2016</p>	<p>Whether Florida's credit card "no surcharge" law unconstitutionally restricts free speech under the First Amendment to the U.S. Constitution. Eleventh Circuit opinion.</p> <p>Decision striking down Florida's credit card 'no surcharge' law as unconstitutional, <i>Banking and Finance Law Daily</i>, Nov. 5, 2015.</p>
Rowell v. Pettijohn	15-1455 (5/31/2016)	Texas credit card "no	Oral argument—no date set	Whether Texas' credit card "no surcharge" law unconstitutionally restricts free speech

		surcharge” law	Response due by 7/5/2016 Respondent’s brief in opposition filed 7/5/2016 Distributed for Conference of 9/26/ 2016 Reply of petitioners Lynn Rowell, dba Beaumont Greenery, et al. filed 7/25/2016	under the First Amendment to the U.S. Constitution. Fifth Circuit opinion . Decision upholding constitutionality of Texas’ credit card ‘no surcharge’ law, Banking and Finance Law Daily, March 17, 2016 .
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Denied Petitions	Docket No.	Subject	Status, Deadlines	Questions Presented
First Resolution Investment Corp. v. Taylor-Jarvis	16-362 (9/14/2016)	Fair Debt Collection Practices Act	Oral argument—no date set Response due 10/21/2016 Certiorari denied 10/31/2016	Whether the First Amendment and the <i>Noerr-Pennington</i> doctrine prevent liability from being imposed for filing a collection suit that is factually accurate but subsequently dismissed due to a change in the law that determines which statute of limitations applies, and whether the FDCPA applies to attorney communications with a court. Ohio Supreme Court opinion . Debt buyer, law firm subject to federal, state liability for collection action, <i>Banking and Finance Law Daily</i> , June 17, 2016 .
Billings v. Propel Financial Services, L.L.C.	16-20 (6/29/2016)	Truth in Lending Act	Oral argument—no date set Response due 8/1/2016 Response requested 7/29/2016 Time to file response to petition extended to 9/28/2016 Distributed for conference of 9/26/2016 Time to file response extended to 9/28/2016 Certiorari denied 10/31/2016	Whether loans made to pay delinquent property taxes on consumers' homes, under an authorizing Texas statute, constituted extensions of credit under the Truth in Lending Act. Fifth Circuit opinion . Financing property tax payments doesn't create a debt under TILA, <i>Banking and Finance Law Daily</i> , May 2, 2016 .
MERSCORP Holdings, Inc. v. Malloy	15-1538 (6/22/2016)	Connecticut mortgage recording fees; Interstate	Oral argument—no date set Response due 7/25/2016 Time to file response to petition extended to 9/23/2016 Brief amici curiae of Consumer Mortgage Coalition, et al.	Whether Connecticut's statutory system for recording fees in which a nominee operating a national electronic database to monitor residential mortgage loans is required to pay fees approximately three times higher than

		Commerce Clause	<p>filed 7/25/2016 Respondents' brief filed 9/23/2016</p> <p>Certiorari denied 10/31/2016</p>	<p>other conventional mortgagees violates the dormant Commerce Clause of the U.S. Constitution. Connecticut Supreme Court opinion.</p> <p>Decision upholding constitutionality of Connecticut laws governing recording fees for a nominee operating a national electronic database to track mortgage loans, Banking and Finance Law Daily, Feb. 19, 2016.</p>
<p>Visa Inc. v. Stoumbos Granted 6/28/2016</p>	<p>15-962 (1/27/2016)</p>	Conspiracy to restrain trade	<p>Oral argument—no date set</p> <p>Response due 2/29/2016 Respondent's brief in opposition filed 3/30/2016 Petitioner's reply filed 4/11/2016 Consolidated with No. 15-961 Brief of petitioners Visa Inc., et al. filed. 9/1/2016 Briefs amici curiae of Chamber of Commerce of the United States of America, et al., American Society of Association Executives, et al., Antitrust Law Professors, and Financial Industry Associations filed. 9/8/2016 Briefs amici curiae of United States, Public Justice P.C., American Antitrust Institute, Antitrust Law Professors and Economists, National Retail Federation, and ATM Industry Association filed 10/24/2016 Acting solicitor general's motion to participate in oral argument and for divided argument granted 11/14/2016 Petition dismissed as improvidently granted 11/17/2016</p>	<p>Whether allegations that members of a business association agreed to follow the association's rules and had governance rights described a conspiracy that could have been in restraint of trade. District of Columbia Circuit opinion.</p>
<p>Visa Inc. v. Osborn Granted 6/28/2016</p>	<p>15-961 (1/27/2016)</p>	Conspiracy to restrain trade	<p>Oral argument—no date set</p> <p>Response due 3/30/2016 Amici brief by American Society of Association Executives filed 2/29-2016</p>	<p>Whether allegations that members of a business association agreed to follow the association's rules and had governance rights described a conspiracy that could have been in restraint of trade. District of Columbia</p>

			<p>Amici brief by Antitrust Law Professors filed 2/29/2016 Respondents' brief in opposition filed 3/30/2016 Petitioner's reply filed 4/11/2016 Consolidated with No. 15-962 Brief of petitioners Visa Inc., et al. filed. 9/1/2016 Briefs amici curiae of Chamber of Commerce of the United States of America, et al., American Society of Association Executives, et al., Antitrust Law Professors, and Financial Industry Associations filed. 9/8/2016 Distributed for conference of 9/28/2015 Petitioner's reply filed 7/8/2015 Solicitor General invited to file brief 10/5/2015 Briefs amici curiae of United States, Public Justice P.C., American Antitrust Institute, Antitrust Law Professors and Economists, National Retail Federation, and ATM Industry Association filed 10/24/2016 Acting solicitor general's motion to participate in oral argument and for divided argument granted 11/14/2016 Petition dismissed as improvidently granted 11/17/2016</p>	<p>Circuit opinion.</p>
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