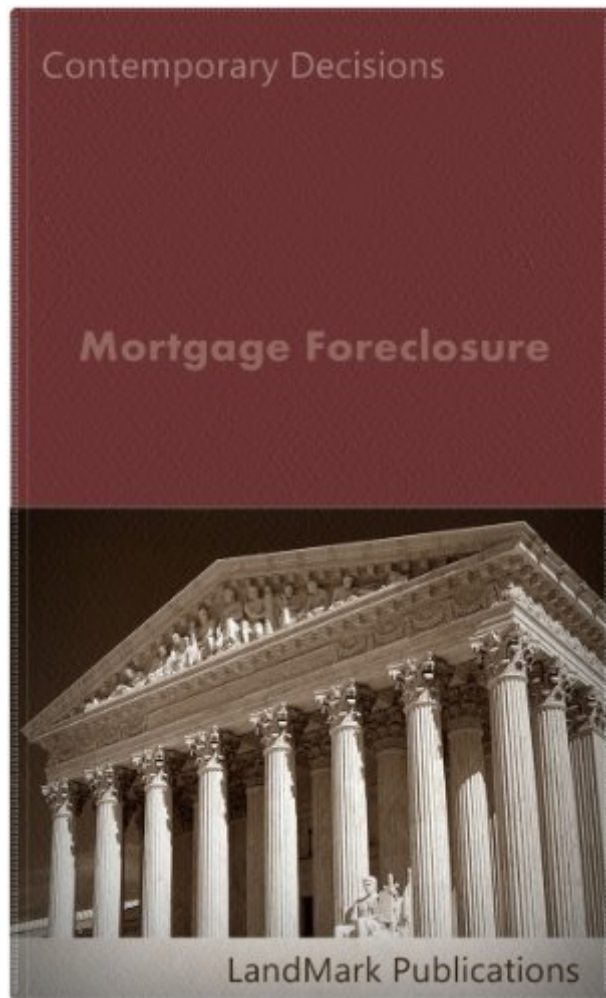




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Mortgage Foreclosure (Litigator Series)



Synopsis

THIS CASEBOOK contains a selection of 97 U. S. Court of Appeals decisions that discuss and analyze issues stemming from mortgage foreclosure actions. The selection of decisions spans from 2005 to the date of publication. The Fair Debt Collection Practices Act ("The Act") speaks in terms of debt collection. For example, to be liable under the statute's substantive provisions, a debt collector's targeted conduct must have been taken "in connection with the collection of any debt," e.g., 15 U.S.C. §§ 1692c(a)-(b), 1692d, 1692e, 1692g, or in order "to collect any debt," id. § 1692f. In addition, to be a "debt collector" under the Act, one must either (1) have as his or her principal business purpose "the collection of any debts" or (2) "regularly collects or attempts to collect, directly or indirectly, debts owed or due ... another." Id. § 1692a(6). *Glazer v. Chase Home Finance LLC*, 704 F. 3d 453 (6th Cir. 2013). Despite the Act's pivotal use of the concept, however, it does not define debt collection. While the concept may seem straightforward enough, confusion has arisen on the question whether mortgage foreclosure is debt collection under the Act. *Ibid.* at 460. The view adopted by a majority of district courts, and the one followed [by the court] below, is that mortgage foreclosure is not debt collection. This view follows from the premise that the enforcement of a security interest, which is precisely what mortgage foreclosure is, is not debt collection. Despite its pervasiveness in the district courts, we find this approach unpersuasive and therefore decline to follow it. *Ibid.* at 460. Mortgage foreclosure is debt collection under the Act. Lawyers who meet the general definition of a "debt collector" must comply with the FDCPA when engaged in mortgage foreclosure. And a lawyer can satisfy that definition if his principal business purpose is mortgage foreclosure or if he "regularly" performs this function. *Ibid.* at 464.

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