CASE LAW UPDATE FOR Q4 2015
ISSUE OF THE COURT CONNECTION

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Supreme Court Cases

Baker Botts L.L.P v ASARCO LLC
135 S. Ct. 2158 (June 15, 2015)

ASARCO obtained bankruptcy court approval to retain two law firms to provide legal representation during the bankruptcy case. The two law firms successfully prosecuted fraudulent transfer claims against ASARCO's parent company. After the victory, the law firms sought compensation for their fees and filed applications in bankruptcy court. The parent company challenged the fee petitions and lost. The court also awarded the firms fees for the services incurred in "defending" a fee application. The Court of Appeals for the Fifth Circuit reversed that part of the decision and on appeal to the high court. The Supreme Court affirmed the Fifth Circuit.

The Court held that §330(a)(1) does not displace the American Rule with respect to fee-defense litigation. The American Rule provides that "[e]ach litigant pays his own attorney's fees" unless otherwise provided by contract or statute. Here, the firms cited Section 327(a) of the Bankruptcy Code, which states that fees can be awarded to "professionals . . . hired to serve the administrator of the estate for the benefit of the estate." The Court stated that litigating fee applications against the bankruptcy administrator are not services performed for the benefit of the estate and if the legislature wanted to shift the burdens of fee defense litigation, it could have done so as it has in other Bankruptcy Code provisions.

Bank of America, N.A. v. Caulkett
135 S.Ct. 1995 (June 1, 2015)

The Supreme Court held that a Chapter 7 debtor could not void a junior mortgage lien under § 506(d) of the Bankruptcy Code when the debt owed on a senior mortgage lien exceeds the current value of the collateral if the "underwater" creditor's claim is both (1) secured by a lien and (2) allowed under § 502 of the Code.

Eleventh Circuit Cases

In re Sagamore Partners, LLP
2015 WL 5091909 (11th Cir. Aug. 31, 2015)

The Eleventh Circuit holds that when the underlying contract between the debtor and secured creditor provides for default-rate interest, in order for debtor to provide a sufficient "cure" under §1123(d) within the plan of reorganization, the default interest must be paid to cure the default.

Green Point Credit v. McLean (In re McLean)
794 F. 3d 1313 (11th Cir. July 23, 2015)

The Eleventh Circuit holds that creditor violated the discharge injunction by filing a proof of claim in a case where the debt was discharged in a prior case. The creditor acknowledged that the proof of claim was filed in error. The Court remanded the case for further proceedings to determine the amount of appropriate sanctions consistent with its recent opinion in Lodge where the Court noted that "not every willful violation of the [discharge injunction] merits compensation for emotional distress and that a standard governing such claims is necessary."

Bankruptcy Court Cases

In re Anthony
2015 WL 5554241 (Bankr. M.D. Fla Sept. 17, 2015) (May, J.)

In the bankruptcy case involving the infamous Casey Anthony, the bankruptcy court granted Anthony's motion for summary judgment, finding that the allegedly defamatory statements made by Anthony at the time of her arrest regarding the babysitter were neither willful nor malicious.

In re Rivera-Cintron
2015 WL 4749217 (Bankr. M.D. Fla. August 12, 2015) (Jennemann, C.J.)

Bankruptcy Court overrules Trustee's objection to Debtor's claimed IRA exemption finding (1) Trustee failed to prove IRA was not exempt and (2) in accordance with Law v. Siegel, even if Debtor had acted in bad faith (which court rejected) bad faith conduct is not a basis to deny debtor's claimed exemptions.

In re Wharton-Price
2015 WL 4230856 (Bankr. M.D. Fla. July 16, 2015) (Delano, J.)

Bankruptcy court sanctioned debtor for seeking to convert Chapter 7 case to a case under Chapter 13 because such conversion was in bad faith and intended divest Chapter 7 trustee of control over settlement concerning a personal injury claim. Court did not impose monetary sanctions, but did enjoin debtor from filing any further papers.

In re Rover Technologies
2015 WL 4247232 (Bankr. M.D. Fla. July 10, 2015) (May, J.)

Bankruptcy Court sustains objection to Debtor's motion for final decree where Debtor failed to give adequate notice to equity holders of the procedure to contribute capital under a confirmed plan.

In re Howe
2015 WL 4197058 (Bankr. M.D. Fla. July 7, 2015) (Funk, J.)

Bankruptcy court sanctioned debtor for seeking to convert Chapter 7 case to a case under Chapter 13 because such conversion was in bad faith and intended divest Chapter 7 trustee of control over settlement concerning a personal injury claim. Court did not impose monetary sanctions, but did enjoin debtor from filing any further papers.

In re McMillan
2015 WL 4065226 (Bankr. M.D. Fla. July 2, 2015) (Funk, J.)

Proceeds from debtor's sale of interest in business, after deducting certain expenses, constituted disposable income that was required to be committed to Chapter 13 plan.