

Court Connection
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CASE LAW UPDATE FOR Q3 2016

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Supreme Court Cases

Husky Int'l Electronics, Inc. v. Ritz

136 S. Ct. 1581, 62 Bankr. Ct. Dec. 156, 26 Fla. L. Weekly Fed. S 135 (S. Ct. May 16, 2016)

The Supreme Court analyzed the term “actual fraud” under §523(a)(2)(A) and, to give it the meaning it has long held, concluded that “actual fraud” encompasses fraudulent conveyance schemes, even ones that do not involve a false representation.

Eleventh Circuit Cases

Johnson v. Midland Funding, LLC

2016 WL 2996372 (11th Cir. May 24, 2016)

The Eleventh Circuit again dealt with the issue of filing time-barred claims in bankruptcy cases and the overlap of the FDCPA. The Court discussed its prior holding in *Crawford* and recognized that the Bankruptcy Code does allow for the filing of a proof of claim that appears time-barred on its face. However, when a specific type of creditor, a “debt collector” under the FDCPA, files a claim it knows to be time-barred, that creditor can be vulnerable to a claim under the FDCPA.

Bankruptcy Court Cases

In re Mitchell

2016 WL 3003440 (Bankr. M.D. Fla. May 17, 2016) (Glenn, J.)

The Bankruptcy Court finds debts to be non-dischargeable under §523(a)(2)(B) where debtor made representations in writing regarding his net worth and the value of his art collection, but at trial debtor failed to provide any support for his representations regarding the value of the artwork. Additionally, the debtor’s discharge was denied under §727(a)(5) where he failed to provide any records or explanation for the enormous discrepancy between his representations prepetition and the assets actually recovered in the bankruptcy case.

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In re Electric Maint. & Constr., Inc.

2016 WL 2985025 (Bankr. M.D. Fla. May 19, 2016) (Delano, J.)

Because §1141(a) provides that a confirmed plan is binding on the debtor and its creditors, and §1127(b) provides that only the plan proponent or the reorganized debtor may seek to modify a plan after confirmation, the court denied a motion by a creditor that sought to force a modification to a plan where the debtor and a secured creditor that was provided for in the plan reached an agreement that effectively paid that secured creditor off from non-debtor sources.

In re Woide

2016 WL 3537468 (Bankr. M.D. Fla. June 22, 2016) (Briskman, J.)

Bankruptcy Court finds that debtors' actions in defending a foreclosure case and seeking to rescind a note and mortgage, after receiving a discharge and after the case was closed, violated their duty to surrender the property under §521. Therefore, the Court granted a motion by the creditor to reopen the bankruptcy case and further ordered the debtors to not take any action to defend or oppose the foreclosure action.

In re American Managed Care, LLC

2016 WL 3621534 (Bankr. M.D. Fla. June 28, 2016) (May, J.)

Bankruptcy Court grants summary judgment in favor of plaintiff in a fraudulent transfer case, finding that the elements of constructive fraud are met when the defendant law firm was engaged to represent the parent company, but the payments were made by the debtor, a subsidiary of the parent company, which did not receive any value for the payments. The court briefly addressed, but rejected, the defendants' argument that the debtor and subsidiary shared an identity of interest.