

## CASE LAW UPDATE FOR Q3 2018

### Submitted by:

Bradley M. Saxton & C. Andrew Roy, Winderweedly, Haines, Ward & Woodman, P.A.

### Supreme Court Cases

#### ***Lamar, Archer & Cofrin, LLP v. Appling***

138 S. Ct. 1752 (June 4, 2018)

Applying the plain language of section 523(a)(2)(B), the Court held that “a statement about a single asset can be a ‘statement respecting the debtor’s financial condition,’” and if that statement is not in writing, the debt may be discharged even if the statement is false.

### Eleventh Circuit Cases

#### ***Weakley v. Eagle Logistics***

\_\_\_\_ F. 3d\_\_\_\_, 2018 WL 3188663 (11th Cir. June 29, 2018)

The Eleventh Circuit held that the District Court properly applied the Slater analysis regarding judicial estoppel by considering all of the facts and circumstances of the case, leading to the conclusion that judicial estoppel would apply when the debtor failed to list two pending civil claims in his bankruptcy schedules.

#### ***Cadwell v. Kaufman, Englett & Lynd, PLLC***

886 F. 3d 1153 (11th Cir. 2018)

The Eleventh Circuit held that section 526(a)(4) prohibits debtor’s counsel from advising a client to incur additional debt by credit card to pay for the legal services in connection with the case. The court rejected the argument that the prohibition only applies if the advice was given with an “invalid purpose.”

**Bankruptcy Court Cases**

***In re Mongelluzzi***

2018 WL 3105066 (Bankr. M.D. Fla. June 20, 2018) (Delano, J.)

Factual issues regarding indirect benefit barred summary judgment on constructive fraudulent transfer claims. Summary judgment granted regarding fraudulent transfer defendant's affirmative defense of good faith.

***In re Rand***

2018 WL 1801224 (Bankr. M.D. Fla. April 12, 2018) (Jennemann, J.)

The Court denied debtor's discharge under sections 727(a)(3), (a)(4), and (a)(5) where, among other things, the Court found debtor's testimony untruthful and not credible, particularly his assertion that he paid all his bills in cash because he opposed the banking system.

***In re Word***

2018 WL 1616837 (Bankr. M.D. Fla. Mar. 30, 2018) (Jackson, J.)

Debtor's tax liability for 2010 held non-dischargeable where debtor failed to meet her burden of showing that a return for 2010 was delivered to the IRS.