



**Editors:**

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

**Supreme Court Cases**

***Mission Product Holdings, Inc. v. Tempnology, LLC***

139 S.Ct. 1652 (May 20, 2019)

Supreme Court resolves circuit split and holds that a debtor-licensor’s rejection of a trademark license under § 365(a) does not terminate the licensee’s right to use the trademark. Rejection means “breach” not “rescission.” Interestingly, by the time the matter reached the Supreme Court, the license had expired by its terms; nevertheless, the majority found that there remained a case or controversy because licensee held a plausible claim for money damages.

***Taggart v. Lorenzen***

139 S.Ct. 1795 (June 3, 2019)

Supreme Court rejects “strict liability” standard and “purely subjective” standard for holding creditor in contempt for violating discharge injunction. Instead, Supreme Court adopts standard permitting sanctions if “there is no fair ground of doubt as to whether the order barred the creditor’s conduct.” Stated differently, sanctions may be ordered if “there is no objectively reasonable basis for concluding that the creditor’s conduct might be lawful.”

This language draws on what the Court calls the “old soil” of the non-bankruptcy civil contempt standard.

**Eleventh Circuit Cases**

***Yerian v. Webber (In re Yerian)***

2019 WL 2610751 (11th Cir. June 26, 2019)

Eleventh Circuit affirmed the district court which affirmed the decision by the bankruptcy court denying debtor's claimed exemption in an IRA. The facts showed that debtor used the IRA for his own personal use by purchasing a condo in Puerto Rico, vehicles titled in his own name, and his personal travel expenses. These "self-dealing" transactions caused the IRS to declare his IRA ineligible for federal tax-exempt status. The Court rejected debtor's argument that notwithstanding the loss of the tax-exempt status, the IRA was still protected from creditors under § 222.21, Florida Statutes, so long as the IRA's governing documents complied with § 408(a) of the Internal Revenue Code.

**Bankruptcy Court Cases**

***In re Lester***

2019 WL 2537954 (Bankr. M.D. Fla. June 20, 2019) (Williamson, C.J.)

Court denied debtor's motion to reopen Chapter 7 case to attempt to vacate foreclosure judgment. Court held that: (1) under the *Rooker-Feldman* doctrine the Court lacked jurisdiction to review the foreclosure judgment, (2) even if the Court had jurisdiction, the Court was bound by the state-court judgment under principles of collateral estoppel, and (3) the creditor met its burden of showing it was the "holder" of the note and mortgage.

***Kolb v. Bentley (In re Bentley)***

599 B.R. 369 (Bankr. M.D. Fla. April 9, 2019) (Jennemann, J.)

Court found that debtor went to extraordinary lengths to hide a valuable 1930 Cord Phaeton vehicle, secretly sold it, used the proceeds to pay off her mortgage, then filed bankruptcy to avoid paying a loan secured by the vehicle. This resulted in the denial of the debtor's discharge, the reduction of her claimed homestead exemption, and the imposition of a constructive trust and equitable lien on her home.

***Regions Bank v. MDG Lake Trafford, LLC (In re McCuan)***  
2019 WL 1984005 (Bankr. M.D. Fla. April 30, 2019) (Delano, J.)

Creditors and Trustee pursued recovery of fraudulent transfers from debtor and debtor's spouse under § 726.105, Florida Statutes, and under § 56.29, Florida Statutes, which is Florida's supplementary proceeding statute. Court avoided transfers as both actually and constructively fraudulent, rejecting the defendants' claims that the transfers could not be avoided because the accounts from which the funds were transferred were held as tenants by the entirety. Additionally, the court found that it would be inequitable to enter judgment against the wife where there was no evidence of fraudulent intent on her part and no evidence that she exercised any control over the accounts.