



CASE LAW UPDATE FOR Q2 2022 ISSUE OF THE COURT CONNECTION

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Eleventh Circuit Cases

U.S. Trustee Region 21 v. Bast Amron LLP (In re Mosaic Management Group, Inc.)

22 F. 4th 1291 (11th Cir. 2022)

Even though the U.S. Supreme Court had already granted *certiorari* to decide a circuit split on the issue, the Eleventh Circuit held that the increase in the quarterly fees paid by chapter 11 debtors to the U.S. Trustee system, which went into effect on January 1, 2018, was constitutional and did not violate the Constitution's uniformity clause.

Valley National Bank v. Warren (In re Westport Holdings Tampa Ltd.)

2022 WL 964962 (11th Cir. Mar. 31, 2022)

A bank, which was the target of claims by the trustee of a liquidation trust, objected to a litigation funding agreement whereby the debtor's principal funded the litigation against the bank. The Eleventh Circuit affirmed, finding the bank lacked standing to object to the funding agreement.

Bankruptcy Court Cases

In re Eva-Djina Grant-Carmack

2022 WL 1115001 (Bankr. M.D. Fla. Mar. 31, 2022) (Robson, J.)

After the debtor received her chapter 7 discharge, her former spouse moved for contempt in the parties' state court divorce proceeding seeking to enforce a fee award entered against the debtor in that case. In response, the debtor moved for sanctions against her spouse in bankruptcy court, arguing that her spouse should be sanctioned under § 524(a)(2) and § 105 for violating the discharge injunction. Noting that a creditor may be held in contempt only "where there is *not* a 'fair ground of doubt' as to whether the creditor's conduct might be lawful under the discharge order," Judge Robson denied the motion for sanctions because there had not been a determination of the dischargeability of the state court fee award, and it was still arguable that the fee award could be nondischargeable under either § 523(a)(5) or § 523(a)(15).

In re Zausner

2022 WL 981398 (Bankr. M.D. Fla. Mar. 31, 2022) (McEwen, J.)

After the debtor filed for bankruptcy, the judge in a state court eviction action continued to enter orders, including a judgment for possession and a ruling that the automatic stay did not apply. So the debtor moved to enforce the automatic stay. Judge McEwen granted the debtor's emergency motion, ruling that the actions of the state court were null and void and that the *Rooker-Feldman* doctrine does not bar a bankruptcy court from making an independent determination regarding the application of the automatic stay.

Everson v. U.S. Department of Education (In re Everson)

Case No. 2:20-ap-00267-FMD (Bankr. M.D. Fla. Mar. 29, 2022) (Delano, C.J.)

Chief Judge Delano found that the debtor's student loan debt was excepted from the debtor's discharge under § 523(a)(8). In doing so, the Court conducted a thorough analysis of the debtor's financial situation in accordance with the *Brunner* test. Although debtor met the *Brunner* test's first two prongs, she failed the third prong because, according to Chief Judge Delano's findings, the debtor had only made a minimal effort to repay the student loan over the last eight years, failed to apply for any Department of Education repayment programs, and used any excess funds for discretionary purchases, rather than for repayment of the loan.

Pierce v. Frick (In re Frick)

2022 WL 404375 (Bankr. M.D. Fla. Jan. 26, 2022) (Robson, J.)

The debtor's ex-wife filed a claim for a non-dischargeable domestic support obligation, which was paid in full by the Chapter 7 Trustee. Later, the ex-wife filed an adversary complaint seeking to deny the debtor's discharge under § 727(a)(4). Judge Robson granted the debtor's motion to dismiss the complaint because his ex-wife lacked standing since her claim had been paid in full. Judge Robson went on to state that even if the claim had not been paid in full, the debtor's ex-wife still lacked standing because her claim was nondischargeable under § 523(a)(15), and as a consequence, the ex-wife had no redressable injury.

Tardiff v. 71 Rutgers Street, LLC (In re Maier)

2022 WL 203594 (Bankr. M.D. Fla. Jan. 24, 2022) (Delano, C.J.)

For a debt to be subject to turnover under § 542, it must not be in dispute. Therefore, Chief Judge Delano denied the trustee's motion for summary judgment on a turnover count.

In re Civic

2022 WL 404338 (Bankr. M.D. Fla. Jan. 21, 2022) (Robson, J.)

Where debtor and his wife had filed four prior cases, all on the eve of foreclosure sales, Judge Robson granted relief from stay with a two year *in rem* bar as to the specific property. Judge Robson also granted relief from the co-debtor stay under §§ 1301(a) and (c)(3) and awarded sanctions to the creditor.