



Case Law Update for Q1 2023
Issue of the Court Connection

Editor:

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Eleventh Circuit Cases

A&S Entertainment LLC v. Florida Dept. of Revenue (In re A&S Entertainment LLC)

2022 WL 17752234 (11th Cir. Dec. 19, 2022)

The Eleventh Circuit affirmed the dismissal of an appeal based on a lack of appellate jurisdiction. The creditor filed a claim, which the chapter 11 debtor objected to. The bankruptcy court entered an order that allowed a sizable priority claim for the creditor. The debtor moved for reconsideration, which was denied. Rather than appeal then, the debtor waited for months (until after its plan was confirmed) to file an appeal. The Eleventh Circuit held that the earlier order was a final order that should have been appealed months earlier because it “settled and disposed of a discrete dispute—what was owed to the creditor—within the larger bankruptcy case.”

Bankruptcy Court Cases

In re McCarthy

2022 WL 5128113 (Bankr. M.D. Fla. Oct. 5, 2022) (Delano, C.J.)

Chief Judge Delano ruled that when a bankruptcy court initially had “related to” jurisdiction over a claim objection, the court has discretion to retain its jurisdiction even though subsequent events alter the jurisdictional analysis. The debtor filed for chapter 13 bankruptcy. So the court had “related to” jurisdiction over the debtor’s objection to a claim filed by a creditor. But the case was later converted to chapter 7 and administered as a no-asset case, which meant the claim objection would no longer have an effect on the

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bankruptcy estate. Even so, Chief Judge Delano exercised her discretion to retain jurisdiction over the claim objection. Chief Judge Delano concluded that the following factors compelled retention of jurisdiction after conversion: (1) judicial economy; (2) fairness and convenience to the litigants; and (3) the degree of difficulty of the related legal issues.

In re Adams

2022 Bankr. LEXIS 2831 (Bankr. M.D. Fla. Oct. 6, 2022) (Delano, C.J.)

Chief Judge Delano ruled that a petitioning creditor was not qualified to file an involuntary chapter 7 case against the debtor because the petitioning creditor's claim was subject to a bona fide dispute. The petitioning creditor bought the debtor's property at a foreclosure sale. As it turned out, the foreclosure action, which was filed by a municipality, failed to name the debtor's mortgage lender. To stop the mortgage lender from foreclosing for nonpayment, the petitioning creditor paid the balance due on the mortgage. The petitioning creditor then filed an involuntary chapter 7 case and asserted a claim for the mortgage balance based on equitable subrogation. Finding that the debtor had not been unjustly enriched by the petitioning creditor's payment of the debtor's mortgage, Chief Judge Delano concluded that the petitioning creditor could not assert a claim for equitable subrogation. Nor did the petitioning creditor have a right to surplus funds from the foreclosure action. So Chief Judge Delano dismissed the involuntary case.

In re Coleman

2022 Bankr. LEXIS 2976 (Bankr. M.D. Fla. Oct. 13, 2022) (Geyer, J.)

Judge Geyer dismissed a chapter 13 case with prejudice and enjoined the debtor from filing for bankruptcy for two years. Although the debtor had filed two prior cases, Judge Geyer initially extended the automatic stay to the confirmation hearing. But Judge Geyer found the debtor's gamesmanship in filing a plan that lacked feasibility warranted dismissal and the imposition of the injunction.

In re English

Case No. 6:22-bk-01396-TPG (Bankr. M.D. Fla. Nov. 10, 2022) (Geyer, J.)

Judge Geyer denied a creditor's motion to extend the time to object to debtor's discharge. The debtor had agreed to an extension for the trustee to file an adversary proceeding to object to discharge, but the Court found no basis in this case to deviate from the general rule that an extension of the §727 or §523 deadline inures only to the benefit of the movant.

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Blue Capital Assets, LLC v. Doby (In re Doby)

2022 WL 18232723 (Bankr. M.D. Fla. Dec. 16, 2022) (Colton, J.)

Judge Colton ruled that debt was nondischargeable under 523(a)(2)(A) because the debtor falsely represented (and created the false impression) that he was a licensed contractor to perform construction repairs when in fact he was not a licensed contractor. After analyzing the facts and the credibility of the witnesses, Judge Colton found that the false representation was intended to deceive and that the creditor justifiably relied on the false representation. Judge Colton also found that the amount that should not be discharged in bankruptcy was the excess amount the creditor paid for the renovation work versus what the creditor would have paid to a licensed contractor.