Court Connection
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Case Law Update for Q2 2024

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Eleventh Circuit Cases

The Alabama Creditors v. Dorand (In re Dorand)
95 F.4th 1355 (11th Cir. 2024)

Before the debtor filed for chapter 7 bankruptcy, his creditors obtained a $1.6 million default judgment against him. Dorand's creditors attempted to enforce their judgment against his individual retirement account. Dorand took the position that the funds in the account were exempt from collection under Alabama's statutory exemptions, but this argument was rejected by the trial court, which, in turn, authorized Morgan Stanley to initiate the transfer of the funds. Before the transfer of the funds from Dorand's retirement account, however, Dorand filed his bankruptcy petition. So, as of the petition date, the funds remained in Dorand's account. The bankruptcy court concluded that it had jurisdiction to determine whether Dorand's retirement account was property of the bankruptcy estate or subject to a claim of exemption because the Alabama judgment did not extinguish Dorand's interest in his retirement account before he filed his bankruptcy petition. The bankruptcy court held that the funds in the retirement account were exempt under Alabama law. On direct appeal to the Eleventh Circuit, the Eleventh Circuit affirmed.

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Bankruptcy Court Cases

Jaspup Prop. Holds., LLC v. Lekhraj (In re Lekhraj)
2024 WL 1357168 (Bankr. M.D. Fla. Mar. 29, 2024) (Vaughan, J.)

Debtor's discharge was barred under section 727(a)(4) based on Judge Vaughan's finding that the debtor acted with the necessary fraudulent intent in omitting several property interests and transactions on her bankruptcy schedules. The debtor used and paid the expenses for a BMW, but she failed to disclose her ownership of the vehicle on her schedules despite being listed on the car's title. The debtor claimed she believed the BMW and an Infiniti, which the debtor co-owned with her daughter and disclosed on her schedules, belonged to her daughter. Judge Vaughan found that claim incredulous. The debtor also failed to disclose rental income on her schedules and statement of financial affairs, in addition to the sale of real property, the proceeds of which were used to pay off a lien on her home. Although those failures may not have independently been sufficient to bar the debtor's discharge, but taken together, Judge Vaughan concluded they evidenced a pattern of nondisclosure that warranted the denial of the debtor's discharge.

In re Jordan
(Bankr. M.D. Fla. Mar. 28, 2024) (Geyer, J.)

Judge Geyer ruled that a proof of claim based on a loan installment agreement was not time barred because a partial payment made by the debtor tolled the five-year statute of limitations under Florida law**.**

HG Wellness, LLC v. Caro (In re Caro)
657 B.R. 888 (Bankr. M.D. Fla. 2024) (Geyer, J.)

Judge Geyer ruled that a chapter 7 debtor, who waived his discharge in a prior bankruptcy case, did not establish good cause to set aside a clerk's default obtained against him in a proceeding objecting to his discharge (and the dischargeability of a debt) in the debtor's second bankruptcy case. Judge Geyer found that the debtor willfully or intentionally disregarded the proceeding by failing to communicate with the creditor, failing to offer a countervailing affidavit opposing the motion for entry of clerk's default, and failing to attend a hearing on the motion for entry of clerk's default. Although Judge Geyer concluded she did not need to decide whether further good cause existed to set aside the default, she nevertheless reviewed the debtor's proposed answers and

defenses and concluded that the debtor failed to establish a meritorious defense.

In re Lincoln
2024 WL 878193 (Bankr. M.D. Fla. Feb. 29, 2024) (Colton, J.)

Judge Colton had entered an order dismissing debtor's chapter 13 case with prejudice and enjoining the debtor from filing another case for six months. The debtor filed a motion that Judge Colton construed as a motion for reconsideration. Judge Colton denied the request for reconsideration, ruling that her prior dismissal order and injunction were appropriate because the debtor had filed numerous prior cases in multiple jurisdictions, had been sanctioned in his local court and failed to pay the sanction, failed to file a plan, and failed to provide the proper identification to conduct the § 341 meeting in this case.

In re Friends of Citrus & the Nature Coast, Inc.
2024 WL 838035 (Bankr. M.D. Fla. Feb. 28, 2024) (Delano, C.J.)

Chief Judge Delano previously ruled that the debtor was entitled to prevailing party attorney's fees and costs on its successful objection to a creditor's proof of claim seeking indemnification under an asset purchase agreement. Judge Delano determined the debtor was entitled to fees and costs based on a prevailing party fee provision in a real estate purchase agreement, which Judge Delano determined was an integrated contract with the asset purchase agreement. The debtor filed a supplemental fee motion setting forth the amount of fees it claimed entitlement to. The creditor sought reconsideration under Rule 60(b)(6), asserting for the first time that the debtor's fee claim was governed by the parties' escrow agreement. The case was previously assigned to Judge Williamson, and the creditor also argued that Judge Williamson's passing provided grounds for relief under Rule 60(b)(6). Judge Delano concluded that the creditor failed to establish a basis for reconsideration of the fee entitlement order under Rule 60(b)(6). However, Judge Delano rejected the debtor's argument that the creditor was barred under the doctrine of res judicata from challenging the reasonableness of debtor's fees, which had previously been approved through the fee application process.

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In re JWB Overland LLC
656 B.R. 518 (Bankr. M.D. Fla. 2024) (Geyer, J.)

Judge Geyer dismissed the chapter 7 case of a dissolved corporation with no assets under § 707(a). Judge Geyer first concluded that good faith is a requirement of all debtors seeking relief under any chapter of the Bankruptcy Code. Judge Geyer went on to find that the case was filed in bad faith. The debtor was not eligible for a discharge. And because the debtor was a dissolved corporation with no assets, it lacked an intent to achieve an orderly liquidation for the benefit of creditors.

In re Peterson
657 B.R. 271 (Bankr. M.D. Fla. 2024) (Burgess, J.)

Judge Burgess reopened a chapter 13 case to allow the debtor to file a motion for sanctions against purchase of assets for violating the discharge injunction. The purchaser asserted, among other things, that its remedy of specific performance was not a "claim" subject to discharge. Judge Burgess disagreed, finding that where Florida law provides an alternative remedy such as monetary damages, the claim is subject to discharge.