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Case Law Update

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Eleventh Circuit Cases

Smart Baking Co., LLC v. Powers Indus., LLC (In re Smart Baking Company, LLC)
2025 WL 1157151 (11th Cir. Apr. 21, 2025).

Smart Baking Company, LLC filed for Chapter 11 bankruptcy, during which the bankruptcy court granted Powers Industrial two administrative claims—one for unpaid rent and another for building-repair costs. Smart Baking initially appealed the repair cost claim before a specific amount was determined, leading to dismissal for lack of finality. After the claim was set at $724,922.00, Smart Baking appealed again but submitted its initial brief 11 days past the deadline. Additionally, the brief was nearly identical to a previously filed one, lacked a corporate disclosure statement, and failed to designate lead counsel as required by local rules. The Eleventh Circuit concluded that the district court acted within its discretion in dismissing the appeal. The combination of the late filing, failure to adhere to procedural rules, and lack of a request for an extension demonstrated "negligence, and even indifference" on Smart Baking's part. The court emphasized that dismissal under Rule 8018(a)(4) is appropriate when such conduct is evident, distinguishing this case from others where appellants showed diligence or sought extensions.

Benshot, LLC v. 2 Monkey Trading, LLC (In re Two Monkey Trading, LLC)
142 F.4th 1323 (11th Cir. July 9, 2025).

In pre-bankruptcy litigation pending in the Eastern District of Wisconsin, BenShot, LLC prevailed against 2 Monkey Trading, LLC and Lucky Shot USA, LLC on all claims, including claims for violations under the Lanham Act and Wisconsin common law, and were awarded punitive damages by the jury. The jury verdict form inquired as to whether the debtors acted "maliciously toward" Benshot or "in an intentional disregard of" BenShot's rights, and the jury answered affirmatively. The debtors sought relief under Subchapter V of

Chapter 11 and to confirm a plan non-consensually under section 1191(b). Benshot filed a complaint objecting to the dischargeability of its debt, alleging that the debt was a non-dischargeable debt under section 523(a)(6) for a willful and malicious injury. The bankruptcy court, adopting the ruling of several bankruptcy courts around the country, granted the debtors' motion to dismiss the creditor's complaint objecting to the dischargeability of debt under section 523(a). The creditor timely appealed the order dismissing the adversary proceeding. Aligning with Fourth and Fifth Circuits, the Eleventh Circuit held that corporate debtors in Subchapter V proceedings who seek to confirm non-consensual plans under section 1191(b) cannot discharge debts listed under section 523(a) based on the plain and unambiguous language of section 1192. The Eleventh Circuit acknowledged the complexity of the interplay between the applicable provisions of the Bankruptcy Code and the split among bankruptcy courts across the nation, but focused on the plain text of section 1192, including its reference to a "kind of debt" rather than a "kind of debtor."

Bankruptcy Court Cases

In re Bay Club of Naples, LLC
2025 WL 1139323 (Bankr. M.D. Fla. Apr. 17, 2025) (Delano, C.J.).

The two affiliated debtors are real estate developers in Naples, Florida. To facilitate the construction of luxury condominium projects, Debtors' chapter 11 plan, the confirmation order, and related transaction documents provided for the holder of the mortgage on the projects to be "subordinate in right, title, and enforcement" to exit financing and construction financing, and that the senior lender (who provided the exit and construction financing) would be paid in full before any payments were made on the subordinated mortgage. Post-confirmation, the subordinated mortgage holder filed a foreclosure action. The debtors, joined by the senior lender, moved to compel the subordinated mortgage holder to comply with the confirmation order. The bankruptcy court held that it had both "arising in" and "related to" jurisdiction over the parties' dispute. And after a trial, the court held that the plain, unambiguous language of the confirmation order barred the foreclosure action.

In re Commercial Express, Inc.
670 B.R. 573 (Bankr. M.D. Fla. 2025) (Geyer, J.).

Relying on section 105(a) of the Bankruptcy Code and the Eleventh Circuit's decision in *Matter of Munford, Inc.*, the bankruptcy court approved a chapter 7 trustee's sale of an insurance policy and related settlement agreement, which

required the entry of third-party bar orders, over the objection of the United States Trustee. The United States Trustee argued that the bar orders were precluded by *Purdue* and that Munford was abrogated by *Purdue*. In overruling the objection of the United States Trustee, the bankruptcy court found that Purdue does not apply to section 363 sales and does not foreclose the entry of a bar order if necessary to monetize an asset of the estate through a sale free and clear of liens, claims, and encumbrances as requested by the chapter 7 trustee.

In re Combs
2025 WL 1114055 (Bankr. M.D. Fla. Apr. 14, 2025) (Geyer, J.).

The bankruptcy court granted judgment creditor's motion to compel chapter 7 debtor's non-filing spouse, who was allegedly a permanent resident of Sweden and the sole owner of the debtor's employer, to appear for a Rule 2004 examination concerning the debtor's financial affairs. On rehearing, the bankruptcy court found that the subpoena was validly served and that the pending proceeding rule did not preclude the wife's examination. Her residence abroad did not negate the service, and her health issues were not sufficient to merit relief. Furthermore, the examination was permissible under Rule 2004, as no adversary proceeding was active at the time the examination was sought.

In re Hudson
2025 WL 1734005 (Bankr. M.D. Fla. June 12, 2025) (Robson, J.).

Prior to the petition date, the debtors obtained a commercial loan with a lender, that was approved by the United States Small Business Administration and secured in part by a mortgage on the debtors' homestead property. The lender filed a proof of claim, asserting a secured claim in the amount of $300,000.00 and an unsecured claim in the amount of $768,845.09. The bankruptcy court disapproved a reaffirmation agreement with the lender for the entire balance due, finding that the debtors did not rebut the presumption of undue hardship, as their monthly income after expenses did not allow for payment of the reaffirmed debt, and that the reaffirmation agreement was not in the best interest of the debtors.

In re Khorran
2025 WL 1144885 (Bankr. M.D. Fla. Apr. 15, 2025) (Colton, J.).

Pro Health, Inc. filed a motion for summary judgment, seeking to have its state court judgment against the debtor declared non-dischargeable under sections

523(a)(2)(A) and 523(a)(6) of the Bankruptcy Code. The judgment stemmed from a state court action in which the debtor was found to have fraudulently induced Pro Health to enter into a lease agreement and subsequently engaged in deliberate acts to render the leased premises uninhabitable. The state court determined that that the debtor acted with conscious and willful intent to harm Pro Health, resulting in damages that were deemed non-dischargeable. The bankruptcy court granted Pro Health's motion for summary judgment in part, holding that the judgment and the associated attorney's fees and costs were non-dischargeable due to fraud and willful and malicious injury based on collateral estoppel principles.

In re Mize
2025 WL 1167801 (Bankr. M.D. Fla. Apr. 21, 2025) (Colton, J.).

The debtor, a realtor for Coldwell Banker, and his wife filed for chapter 7 bankruptcy. Mr. Mize claimed two real estate commissions expected post-petition for pre-petition sales as exempt earnings on Schedule C of his bankruptcy schedules, citing Florida Statute § 222.11(2)(b). This statute protects the "disposable earnings of a head of a family" from garnishment. The trustee objected, arguing the commissions did not constitute earnings under the statute. Mr. Mize worked under an Independent Contractor Agreement with Coldwell Banker, where his compensation was determined by commission, and he did not have ownership in the company. The bankruptcy court granted the debtors' motion for summary judgment and denied the trustee's motion for summary judgment, finding that the real estate commissions claimed by Mr. Mize as exempt earnings under section 222.11(2)(a), Florida Statutes, qualified as "earnings." Since Mize was the head of a family and did not agree to garnishment in writing, his commissions were deemed exempt and protected from garnishment.

In re MTL Partners, LLC
2025 WL 1905637 (Bankr. M.D. Fla. June 2, 2025) (Robson, J.).

Chapter 11 debtor contended that the United States Small Business Administration did not have a perfected security interest in cash generated from the sale of inventory held in the debtors' bank account in the absence of a deposit control agreement. The SBA was properly perfected as to the debtor's inventory and office furnishings and equipment. In concluding that the SBA's claim was secured by the identifiable proceeds of the sale of the inventory, even though the parties did not execute a deposit control agreement, the bankruptcy court relied on sections 679.3121(a) and 679.3151, Florida Statutes, which

provide that a deposit control agreement is not necessary where a secured creditor has a properly perfected lien on collateral and the cash proceeds from the sale of the collateral are identifiable.

In re Ortiz
2025 WL 1139169 (Bankr. M.D. Fla. Apr. 17, 2025) (Delano, C.J.).

Reaffirmation agreement can be enforceable when it was "made" prior to entry of discharge, even if it was signed and filed after entry of the discharge.