Case Summaries: Fifth Circuit and District Court Opinions

UT Law, 2024 Consumer Bankruptcy Practice Conferences
Case Summaries*[1] from Consumer Bankruptcy Opinions Issued by United States District Courts in Texas and the Fifth Circuit Court of Appeals from July 2023 through July 2024

Presenters:

The Honorable Craig A. Gargotta, United States Bankruptcy Court for the Western District of Texas – San Antonio Division

Erin Coughlin, Trial Attorney, Department of Justice, Office of the United States Trustee*[2]

[1] Case summaries drafted by Chief Judge Gargotta, Gabrielle Resnick, Grecia Sarda, and Erin Coughlin.

[2] Any views expressed are those of the speakers and do not necessarily represent the views of and should not be attributable to the United States Trustee Program or the U.S. Department of Justice.

FIFTH CIRCUIT COURT OF APPEALS DECISIONS ISSUED FROM JUNE 2023 THROUGH JUNE 2024

Matter of Mijares, No. 23-10831, 2024 WL 1855427, (5th Cir. Apr. 29, 2024).

Standard of Review on Appeals Dischargeability, Setoff

Summary: Physicians Daniel Mijares and Jordan Pastorek were equal members of a professional liability company (the "PLLC"). Mijares and Pastorek had a payment agreement whereby each doctor would be paid from the collections received from their respective patients, reduced by fifty percent of authorized expenses incurred by the PLLC.

Mijares filed a chapter 7 case. In Mijares' bankruptcy case, Pastorek filed a lawsuit alleging that Mijares was personally liable to Pastorek for underpayment of Pastorek's compensation because improper expenses for the PLLC were deducted from his patient collections, and that funds owed from Mijaires to Pastorek are excepted from discharge under 11 U.S.C. § 523(a)(2)(A). The bankruptcy court rendered judgment in favor of Pastorek. Mijares filed a motion to alter or amend the judgment, alleging that the bankruptcy court overlooked evidence entitling him to a setoff credit for patient receivables kept by Pastorek. The bankruptcy court granted Mijares' request for additional findings but denied Mijares' request for a reduction in the amount awarded to Pastorek due to the lack of evidence showing what amounts were owed between the parties. The district court affirmed.

The Fifth Circuit affirmed the district court's judgment, disagreeing with Mijares' argument that the bankruptcy court disregarded evidence establishing that the amount owed to Pastorek was erroneous. The Fifth Circuit also noted that it agreed with the bankruptcy court's finding that Mijares' attempt to recoup a fraud claim against a contractual offset claim was not fair and equitable, and thus setoff did not apply.

Matter of Matloff, No. 23-10698, 2024 WL 1195362, (5th Cir. Mar. 20, 2024).

Standard of Review on Appeals Regarding Discharge and Dischargeability

Summary: Creditor Triumphant Gold Limited ("Triumphant") provided loans and extended credit to Darren Matloff and his business. Ultimately, Matloff defaulted on his obligations to Triumphant and filed for chapter 7 bankruptcy. In Matloff's bankruptcy case, Triumphant filed a complaint with allegations under 11 U.S.C. §§ 523(a)(2)(A), 523(a)(6), 727(a)(2)(A), 727(a)(3), and 727(a)(7). The bankruptcy court issued a 139-page opinion rejecting Triumphant's objection to discharge. On appeal, the district court affirmed the bankruptcy court's opinion in a single page order with a two-paragraph discussion section that applied a blanket clear-error standard for appellate review.

Fifth Circuit precedent provides that issues regarding entitlement to discharge under 11 U.S.C. §§ 523 and 727 are questions of law subject to *de novo* review on appeal. As such, the Fifth Circuit vacated the district court's order and remanded the case back to district court for appellate review under the *de novo* standard.

Matter of Gilani, No. 23-40477, 2024 WL 340822 (5th Cir. Jan. 30, 2024).

The *Rooker-Feldman* Doctrine

Summary: The State of Nevada commenced a criminal action against John Bari Gilani and charged him with felonies, including issuance of a check without sufficient funds. Gilani filed for chapter 7 bankruptcy in 2011 and then entered into a written plea agreement for his charges in 2013. In the plea agreement, Gilani pled guilty to passing checks with intent to defraud, and he was ordered to make restitution to the victims of the offense. Appellee, Wynn Las Vegas, was listed on the debtor's schedules as a general unsecured claim holder in connection with a civil judgment. Wynn subsequently filed a petition in state court to enforce the restitution order. Nevada's statute states that an independent action to enforce a judgment may be commenced at any time. Gilani opposed Wynn's petition, arguing that the judgment was discharged in his 2011 bankruptcy. In 2022, a state district court granted Wynn's petition to enforce the judgment requiring Gilani to pay Wynn restitution. Wynn filed a motion with the bankruptcy court to reopen his case and enforce a permanent injunction against Wynn, but the bankruptcy court denied his motion because the plea agreement was entered into two years after the bankruptcy filing and discharge. The Fifth Circuit stated that the bankruptcy court correctly applied the *Rooker-Feldman* doctrine, which prohibits a lower federal court from reviewing state-court judgments rendered before the federal proceeding had commenced.

Matter of Charles, No. 22-20552, 2023 WL 5338609, (5th Cir. Aug. 15, 2023).

Objecting to Proofs of Claim

Summary: Chapter 13 debtors filed a proof of claim on behalf of federal student loan debt creditors, Department of Education ("DOE") and Great Lakes Educational Loan Services, Inc. ("GLES"), before the bar date for governmental creditors. Another of the debtors' unsecured creditors, United Community Bank, objected to the claim, alleging that the claims were not filed timely and the earlier bar date for non-governmental units should apply because there was no proof that GLES, which was the student loan servicer for the DOE, was a governmental unit. The bankruptcy court sustained United Community Bank's objection. The debtors filed a motion to reconsider under Fed. R. Civ. P. 59(e) and attached a master promissory note with the DOE and printouts from DOE and GLES' websites. The bankruptcy court denied the motion to reconsider. The district court affirmed the bankruptcy court.

The Fifth Circuit reversed the judgment of the district court and remanded the case to bankruptcy court after determining that the DOE, a governmental unit, was the claim creditor because the DOE made the direct loan itself and had actual ownership of the debt. The bar date for governmental units applied to the debtor's student loan debt with the DOE and the claim was timely filed.

Title search: Case Summaries: Fifth Circuit and District Court Opinions

First appeared as part of the conference materials for the
2024 Consumer Bankruptcy Practice session
"Case Summaries: Fifth Circuit and District Court Opinions"