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U.S. Supreme Court Holds that Filing of Bankruptcy Proof of Claim on Time-Barred Debt Does Not Violate FDCPA

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On May 15, 2017, in the case of *Midland Funding, LLC v. Johnson*, the U.S. Supreme Court held in a 5-3 decision (Justice Gorsuch did not participate in the opinion) that a debt collector that files a proof of claim on a time-barred debt in a consumer bankruptcy does not violate the Fair Debt Collection Practices Act.

Midland Funding, LLC, a debt collector, filed a proof of claim in Aleida Johnson's Chapter 13 bankruptcy case. The underlying debt for which Midland filed the claim was outside the applicable statute of limitations in Alabama. Johnson objected to the claim, and the bankruptcy court disallowed the claim. Johnson then sued Midland, claiming that its filing of the proof of claim on a time-barred debt was deceptive and unfair in violation of the FDCPA. The district court held that the FDCPA does not apply in bankruptcy, and dismissed Johnson's lawsuit. The U.S. Court of Appeals for the Eleventh Circuit reversed, holding that Midland violated the FDCPA by filing a proof of claim on a time-barred debt. Midland appealed, and the U.S. Supreme Court granted certiorari in October of 2016. The Court heard oral argument on January 17, 2017, and issued its opinion reversing the Eleventh Circuit's decision.

The Court first held that the proof of claim was not deceptive simply because it was time-barred. The Court considered the plain language of the Bankruptcy Code, which says that if a claim is unenforceable, it will be disallowed. This, the Court explained, means that a proof of claim does not have to be enforceable at the time the creditor or debt collector files it. The Court went on to explain that, under the Bankruptcy Code, the burden is on the debtor or bankruptcy trustee to challenge the timeliness of the claim. The creditor or debt collector does not have to prove the timeliness of its claim.

Next, the Court found that Midland's filing of the proof of claim was not unfair. Johnson had argued that the filing of a proof of claim in bankruptcy is akin to filing a collection lawsuit, and all federal appellate courts to consider the issue have held that the filing of a collection lawsuit on a time-barred debt violates the FDCPA. The Court disagreed with Johnson, reasoning that the concerns over time-barred debt in a civil suit "have significantly diminished force in the context of a Chapter 13 bankruptcy." The Court identified several key factors that distinguish a collection lawsuit from a bankruptcy proof of claim: (1) the consumer initiates a bankruptcy proceeding and, therefore, there is no risk of a consumer paying a time-barred claim to avoid litigation; (2) "a knowledgeable trustee is available" and there are procedural rules in place to prevent the bankruptcy estate from paying out unenforceable claims; and (3) the filing of the stale claim actually benefits the consumer because the claim will be discharged if she successfully completes the plan.

The Court did not expressly address the issue of whether the FDCPA applies in bankruptcy, but based on its reasoning - which focused on whether Midland's conduct during Johnson's bankruptcy violated the FDCPA, and not whether the FDCPA applied in bankruptcy - it is clear the Court believes that the FDCPA applies in bankruptcy.

Justices Sotomayor, joined by Justices Ginsburg and Kagan, dissented.

Opinion

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