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BANKING ALERT

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New Jersey Federal Court Dismisses FDCPA and CFA claims Under Rooker-Feldman Doctrine

In *Lin v. Hudson City Sav. Bank*, plaintiffs Jay and Irene Lin (together, "Plaintiffs") executed a note and mortgage in favor of Hudson City Savings Bank, later acquired by M&T Bank ("Hudson"). After the Plaintiffs defaulted, Hudson instituted foreclosure proceedings in New Jersey state court. During the pendency of the foreclosure action, plaintiff Irene Lin filed for bankruptcy. After Hudson received relief from the automatic bankruptcy stay, the state court entered final judgment in the foreclosure proceeding. Plaintiffs then filed an action against Hudson and Parker McCay, Hudson's counsel in the state court action, in the United States District Court for the District of New Jersey, alleging that defendants violated the Fair Debt Collection Practices Act ("FDCPA") by proceeding with a foreclosure action. The federal court dismissed the case for lack of subject matter jurisdiction. Plaintiffs then filed another complaint in federal court, alleging that the defendants were unjustly enriched and violated the FDCPA and the New Jersey Consumer Fraud Act. Each defendant filed a motion to dismiss.

The defendants argued that the Court lacked subject matter jurisdiction pursuant to the *Rooker-Feldman* doctrine. Broadly speaking, the *Rooker-Feldman* doctrine prevents federal courts from conducting appellate review of state-court judgments. The Court determined that the doctrine applied, barring Plaintiffs' claims. As the Court saw it, the final judgment was entered against Plaintiffs in the foreclosure action before the filing of the federal complaint; the injuries that Plaintiffs complained of flowed from the judgment in the foreclosure action; and, finally, Plaintiffs sought a determination from the federal court "that would necessarily find that the Superior Court erred with respect to the validity of the foreclosure proceedings" and require the Court to "improperly undertake the role of reviewing and overruling orders from the Superior Court." Plaintiffs' claims were thus barred by the *Rooker-Feldman* doctrine. That determination held even though Plaintiffs were asserting federal claims in a federal action.

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The Court also determined that were additional grounds for dismissing Plaintiffs' complaint. The Court determined that it could abstain from hearing the matter under the *Colorado River* abstention doctrine. That doctrine provides that a federal court may abstain from exercising jurisdiction when there is a "parallel" concurrent proceeding pending in state court, *i.e.*, an action that involves the same parties and substantially the same issues. The *Colorado River* doctrine applied, the Court concluded, because "this action has the same parties as did the Foreclosure Action and identical underlying operative facts from which Plaintiffs claim they are entitled to relief." Moreover, New Jersey's entire controversy doctrine, which requires litigants to bring all related claims that they have against the other party in a single action, also barred Plaintiffs' claims. As the district court explained, New Jersey courts have held that the exact claims raised by Plaintiffs – claims under the FDCPA, NJCFA, and unjust enrichment – are indeed "germane" counterclaims that must be raised during a foreclosure action. Accordingly, the entire controversy doctrine, as well as similar federal principles of claim preclusion, also served a basis for granting the defendants' motions to dismiss.

New Jersey Appellate Division Affirms Dismissal of Claim for Failure to Pay on a Dishonored Check

In *Triffin v. A.W. Holdings, LLC, et al.*, A-5592-17T3 (N.J. App. Div. Sept 17, 2019), the New Jersey Appellate Division affirmed the trial court's decision dismissing a claim for payment on a dishonored check.

Defendants issued a check in the amount of $1018.29 to defendant Leshonda Armstong, who deposited the check electronically with her bank, Affinity Federal Credit Union ("Affinity"). Armstrong then also submitted the check to Friendly Check Cashing Company ("Friendly"), which also paid her $1018.29. Affinity and Friendly both submitted the check for payment to Wells Fargo and in the process the check passed through the Federal Reserve Bank of Atlanta ("Federal Reserve"), which identified the "duplicate item." The Federal Reserve paid the check submitted by Affinity because it was received first. The Federal Reserve then dishonored the check submitted by Friendly, marked it "REFER TO MAKER" and returned it to Friendly unpaid.

Plaintiff Robert J. Triffin ("Plaintiff") later purchased the dishonored check from Friendly, which assigned its right to payment to Plaintiff. Plaintiff then filed a complaint against Defendants and Armstrong seeking to recover the full amount of the check, along with fees and interest.

After a one-day bench trial, the trial judge held that Plaintiff was not entitled to payment on the dishonored check. The trial judge found that N.J.S.A. 12A4-414(c) states: "[i]f a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance has been paid." The court found that the check was "accepted by a bank" when Armstrong deposited it in her bank or Friendly deposited it with its bank. Thus, the court found that Defendants, as the "drawer" of the check, had no further obligation to pay on the check a second time to Plaintiff. Plaintiff appealed the trial court's decision. The Appellate Division found no reason to disturb the trial court's well-reasoned decision and affirmed without providing any additional reasoning.

New Jersey Appellate Division Refuses to Vacate Final Judgment of Foreclosure Despite Mistakenly Filed Satisfaction of Mortgage

In *Wells Fargo Bank, N.A. v. Leary*, William and Shirley Leary executed a note and mortgage in connection with the purchase of their home in Pennsauken, New Jersey. Wells Fargo Bank, N.A. ("Wells Fargo") mistakenly executed and recorded a satisfaction, cancellation, and discharge of the mortgage prior to it being fully satisfied or cancelled. The Learys defaulted on the mortgage loan, and Wells Fargo filed a foreclosure complaint and recorded a notice of lis pendens. After a default was entered against the Learys, final judgment of foreclosure was entered, authorizing sale of the property. Wells Fargo then filed a motion to expunge the erroneous discharge of the mortgage and to confirm the final judgment. Before the foreclosure sale, and while Wells Fargo's motion was pending, however, the Learys and Chelsea Rea, LLC entered into an agreement for the sale of the property for $23,500. Chelsea Rea then moved to intervene in the foreclosure action and to stay the pending sheriff's sale. The trial court granted Wells Fargo's motion to reinstate the mortgage and denied Chelsea Rea's motion to intervene. Chelsea Rea appealed. While the appeal was pending, Chealsea Rea conveyed the property to William Capellan for $134,000. After considering Chelsea Rea's emergent appeal, the Appellate Division summarily remanded the matter to the trial court to reconsider the denial of Chelsea Rea's motion to intervene and stayed the sheriff's sale pending the resolution of that motion. By agreement of the parties, Capellan was then substituted in for Chelsea Rea and allowed to intervene.

Capellan subsequently filed a motion to vacate the final judgment of foreclosure. The trial court denied the motion, finding that the final judgment was not procured by misrepresentations or misconduct by Wells Fargo. The court reasoned that it was undisputed that the mortgage had not been satisfied, that Chelsea Rea admitted that it was aware of the lis pendens at the time it purchased the property, and that Capellan purchased the property after the mortgage had been reinstated and the final judgment had been confirmed. Capellan appealed, and the Appellate Division affirmed, explaining that when Capellan purchased the property, a title search would have revealed the lis pendens, the final judgment, and the reinstatement of the mortgage. Under these those facts, the Appellate Division saw no abuse of discretion in the trial court's denial of the relief requested by Capellan.

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