SUPREME COURT OF MISSISSIPPI

Harmon v. Regions Bank

961 So. 2d 693 (Miss. 2007) · No. 2006-CA-00453-SCT · Decided June 7, 2007

SUMMARY

The Mississippi Supreme Court affirmed summary judgment for Regions Bank in the Harmons' claims arising from allegedly false credit reporting and related harassment. The court held that the Fair Credit Reporting Act preempted the state-law defamation and harassment claims because the Harmons did not present sufficient allegations or evidence that the information was furnished with malice or willful intent to injure. The court also held that additional findings of fact were not required on summary judgment and that the motion to amend was untimely.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Dickinson, Justice; Smith, C.J.; Waller, P.J.; Carlson, J.; Dickinson, J.; Randolph, J.; Diaz, P.J.; Easley, J.; Graves, J.
JURISDICTION	Mississippi
DECIDED	June 7, 2007
DOCKET	2006-CA-00453-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the denial of their motion to reconsider summary judgment and motion for authority to file an amended complaint after the circuit court entered summary judgment for Regions Bank.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Denial of leave to amend is reviewed for abuse of discretion. The court also stated that factual findings are respected when supported by reasonable evidence and not manifestly wrong.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion
PARTIES	Martha M. Harmon, James V. Harmon v. Regions Bank

TOPICS

credit reporting · summary judgment · civil procedure · appellate procedure · consumer protection

PRACTICE AREAS

consumer protection | credit reporting | civil procedure | commercial litigation

QUESTIONS PRESENTED

1. Whether the Fair Credit Reporting Act preempted the Harmons' state-law claims for defamation and harassment based on Regions Bank's reporting of credit information.
2. Whether the circuit court was required to make findings of fact concerning the FCRA preemption issue.
3. Whether the circuit court abused its discretion by denying the Harmons' motion to amend their complaint after entry of summary judgment.

HOLDINGS

1. The FCRA expressly preempted the Harmons' state-law claims because defamation is specifically listed in 15 U.S.C. § 1681h(e), and the harassment claim was in the nature of an invasion-of-privacy claim. The exception for false information furnished with malice or willful intent to injure did not apply because the Harmons presented no evidence or sufficiently particular allegations establishing malice or willful intent.
2. The circuit court was not required to make Rule 52 findings of fact in ruling on a Rule 56 summary-judgment motion, and the record nevertheless showed that the trial judge adequately addressed the false-reporting and malice issues.
3. The circuit court properly denied the Harmons' motion to amend because the motion was filed seven days after entry of final judgment and therefore was untimely.

KEY QUOTATIONS

> *"The tort list of § 1681h(e) is non-exhaustive and includes state law claims itemized and "in the nature" of those listed."* (at 697-698)

> *"The reporting of false information is obvious; however, the Harmons have not shown, proved or pled that the information was false due to malicious or willful intent to defame their reputations."* (at 700)

FACTUAL BACKGROUND

The Harmons paid in full mortgage loans originally made by Sunburst Bank and Union Planters Bank, which later merged into Regions Bank. They alleged that Regions nevertheless sent delinquency notices, made telephone calls seeking payment, and reported that their payments were in arrears and that their home was in foreclosure. Although Regions later acknowledged that the loans had been paid and directed credit reporting agencies to correct the information, the Harmons alleged that the reporting damaged their credit and caused Martha to be denied a business loan.

PROCEDURAL HISTORY

The Harmons sued Regions Bank in the Circuit Court of the First Judicial District of Chickasaw County, Mississippi, alleging harassment and defamation arising from allegedly false credit reporting concerning loans they had paid. The circuit court granted Regions Bank's motion for summary judgment, denied the Harmons' motion to reconsider, and denied their motion to amend filed after final judgment. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- McKinley v. Lamar Bank, 919 So. 2d 918, 925 (Miss. 2005)
- Hardy v. Brock, 826 So. 2d 71, 74 (Miss. 2002)
- Harrison v. Chandler-Sampson Ins., Inc., 891 So. 2d 224, 228 (Miss. 2005)
- Miller v. Meeks, 762 So. 2d 302, 304 (Miss. 2000)
- Cooper v. GMC, 702 So. 2d 428, 434 (Miss. 1997)
- English v. General Elec. Co., 496 U.S. 72, 78-79 (1990)
- Mitchell v. First Nat'l Bank, 505 F. Supp. 176, 177 (M.D. Ala. 1981)
- Carlson v. Trans Union, LLC, 259 F. Supp. 2d 517, 521 (N.D. Tex. 2003)
- Mississippi Dep't of Wildlife, Fisheries & Parks v. Mississippi Wildlife Enforcement Officers' Ass'n, 740 So. 2d 925, 936 (Miss. 1999)
- State ex rel. Petty v. Wurst, 49 Ohio App. 3d 59, 550 N.E.2d 214, 216 (1989)
- Kilroy v. NLRB, 633 F. Supp. 136, 143 (S.D. Ohio 1985), aff'd, 823 F.2d 553 (6th Cir. 1987)
- Cousin v. Trans Union Corp., 246 F.3d 359, 375 (5th Cir. 2001)
- Memphis Steam Laundry-Cleaners, Inc. v. Lindsey, 192 Miss. 224, 237-38, 5 So. 2d 227, 231 (1941)
- Strong v. Nicholson, 580 So. 2d 1288, 1293 (Miss. 1991)
- Owens v. Kroger Co., 430 So. 2d 843 (Miss. 1983)
- Brown v. Watkins, 213 Miss. 365, 373, 56 So. 2d 888, 891 (1952)
- Byrd v. Bowie, 933 So. 2d 899, 905 (Miss. 2006)
- Wal-Mart Super Ctr. v. Long, 852 So. 2d 568, 570 (Miss. 2003)
- Moeller v. Am. Guar. & Liab. Ins. Co., 812 So. 2d 953, 961 (Miss. 2002)
- Preferred Risk Mut. Ins. Co. v. Johnson, 730 So. 2d 574, 579 (Miss. 1998)
- Hartford Cas. Ins. Co. v. Halliburton Co., 826 So. 2d 1206, 1219-20 (Miss. 2001)
- American Bankers Ass'n v. Gould, 412 F.3d 1081 (9th Cir. 2005)
- New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
- Morris v. Equifax Info. Servs., LLC, 457 F.3d 460, 471 (5th Cir. 2006)