

SUPREME COURT OF ARKANSAS

Simpson v. Calvary SPV I, LLC

2014 Ark. 33 (2014) · No. CV-14-45 · Decided January 23, 2014

SUMMARY

The Arkansas Supreme Court accepted certified questions from the United States District Court for the Eastern District of Arkansas concerning whether an entity that purchases delinquent accounts and uses an Arkansas lawyer to collect them is a collection agency under Arkansas law and must be licensed. The per curiam order establishes briefing, potential oral-argument, amicus, and addendum requirements for the certified-question proceeding.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	January 23, 2014
DOCKET	CV-14-45
DISPOSITION	cert_granted
PROCEDURAL POSTURE	The Supreme Court of Arkansas considered a certification order and motion from the United States District Court for the Eastern District of Arkansas requesting answers to two questions of Arkansas law.
PRECEDENTIAL VALUE	precedential
PARTIES	Patty E. Simpson v. Calvary SPV I, LLC, as assignee of HSBC Bank Nevada, N.A./Orchard Bank

TOPICS

[appellate procedure](#)[statutory interpretation](#)[consumer protection](#)[commercial litigation](#)[civil procedure](#)

PRACTICE AREAS

[appellate procedure](#)[civil procedure](#)[consumer protection](#)[commercial litigation](#)

QUESTIONS PRESENTED

1. Whether the Arkansas Supreme Court should accept certification of two questions of Arkansas law from the United States District Court for the Eastern District of Arkansas.
2. Whether an entity that purchases delinquent accounts and retains a licensed Arkansas lawyer to collect the accounts and file lawsuits is attempting to collect under Arkansas Code Annotated section 17-24-1101 and therefore meets the statutory definition of collection agency.
3. Whether such an entity is attempting to collect and is therefore required to be licensed under Arkansas Code Annotated section 17-24-301(4).

HOLDINGS

1. The court accepted certification of the two questions of Arkansas law because the questions could be determinative of the pending federal cause and there was no controlling precedent in Arkansas Supreme Court decisions.

KEY QUOTATIONS

“After a review of the certifying court’s analysis and explanation of the need for this court to answer the questions of law presently pending in that court, we accept certification of the following questions:” (at 1)

“Certified questions accepted.” (at 3)

FACTUAL BACKGROUND

The underlying federal action concerns an entity that purchased delinquent accounts and retained a licensed Arkansas lawyer to collect the accounts and file lawsuits in Arkansas. The certified questions concern whether those activities constitute attempting to collect under Arkansas's statutory definition of collection agency and whether the entity was required to obtain a license from the Arkansas State Board of Collection Agencies. The Arkansas Supreme Court addressed only whether to accept certification of those questions.

PROCEDURAL HISTORY

Judge J. Leon Holmes of the United States District Court for the Eastern District of Arkansas, Northern Division, filed a motion and certification order on January 14, 2014. The federal court requested certification because the questions could be determinative of a pending cause and there was no controlling Arkansas Supreme Court precedent. The Arkansas Supreme Court accepted certification and established briefing and related procedural requirements, but did not answer the certified questions in this order.

DISPOSITION

cert_granted

REMAND INSTRUCTIONS

The court directed the parties to proceed with briefing under the specified schedule and requirements, to include specified pleadings in an addendum, and to process the matter as a case on appeal. The court did not remand the underlying federal action or answer the certified questions in this order.

