

SUPREME COURT OF ARKANSAS

Simpson v. Calvary SPV I, LLC

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

OPINION

PER CURIAM.

Cite as 2014 Ark. 33 SUPREME COURT OF ARKANSAS No. CV-14-45 PATTY E. SIMPSON Opinion Delivered January 23, 2014 PETITIONER REQUEST TO CERTIFY V. QUESTIONS OF LAW FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN CALVARY SPV I, LLC, AS ASSIGNEE DISTRICT OF ARKANSAS OF HSBC BANK NEVADA, (NORTHERN DIVISION) N.A./ORCHARD BANK RESPONDENT CERTIFIED QUESTIONS ACCEPTED.

PER CURIAM In accordance with section 2(D)(3) of amendment 80 to the Arkansas Constitution and Rule 6-8 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas, the Honorable J. Leon Holmes of the United States District Court for the Eastern District of Arkansas, Northern Division, has filed a motion and certification order with our clerk on January 14, 2014.

The certifying court requests that we answer questions of law that may be determinative of a cause now pending in the certifying court, because it appears that there is no controlling precedent in the decisions of the Supreme Court of Arkansas.

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: 1. Whether an entity that purchases delinquent accounts and then retains a Cite as 2014 Ark. 33 licensed Arkansas lawyer to collect on the delinquent accounts and file lawsuits on its behalf in Arkansas is “attempt[ing] to collect,” thus meeting the definition of “collection agency,” pursuant to Arkansas Code Annotated section 17-24-1101?

2. Whether an entity that purchases delinquent accounts and then retains a licensed Arkansas lawyer to collect on the delinquent accounts and file lawsuits on its behalf in Arkansas is “attempt[ing] to collect” and, thus, is required to be licensed by the Arkansas State Board of Collection Agencies pursuant to Arkansas Code Annotated section 17-24-301(4)? This per curiam order constitutes notice of our acceptance of the certification of these questions of law.

For purposes of the pending proceeding in this court, the following requirements are imposed: A. Time limits will be calculated from the date of this per curiam order accepting certification. The plaintiff in the underlying action, Patty E. Simpson, is designated as the moving party and will be denoted as the “Petitioner,” and her brief is due thirty days from the date of this per curiam.

The defendant, Cavalry SPV 1, LLC, shall be denoted as the “Respondent,” and its brief shall be due thirty days after the filing of Petitioner’s brief. Petitioner may file a reply brief within fifteen days after Respondent’s brief has been filed. B. The briefs shall comply with this court’s rules as in other cases except for the briefs’ content. Only the following items required in Arkansas Supreme Court Rule 4-2(a) shall be included: (3) Points on appeal which shall correspond to the certified questions of law to be answered in the federal district court’s certification order.

(4) Table of authorities. (6) Statement of the case which shall correspond to the facts relevant to the certified questions of law as stated in the federal district court’s certification order. (7) Argument. (8) Addendum. 2 Cite as 2014 Ark. 33 (9) Cover for briefs. C. Oral argument will be permitted only if this court concludes that it will be helpful for presentation of the issues.

D. Arkansas Supreme Court Rule 4-6 with respect to amicus curiae briefs will apply. E. This matter will be processed as any case on appeal. F. Rule XIV of the Rules Governing Admission to the Bar shall apply to the attorneys for the Petitioner and the Respondent. Pursuant to Arkansas Supreme Court Rule 6-8(d), we request that the parties include in an addendum the following pleadings: the complaint; the answer, if any; the motion to dismiss; and any responses, replies, and briefs in support thereof.

In addition, if the parties believe that any additional pleadings will be useful to our understanding of the legal issues presented, those pleadings should be included as well. Certified questions accepted. 3