

Bankruptcy Circuit Update

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First Circuit Summaries

U.S. Bank. Nat'l, Assoc. v. Blais, (In re Blais), 512 B.R. 727 (1st Circuit B.A.P., July 8, 2014)

Bankruptcy Appellate Panel vacated the bankruptcy court's order sustaining debtors' objection to the mortgagee's proof of claim, and remanded for the bankruptcy court to reconsider its decision in light of relevant Maine state law. Debtors had objected to the proof of claim on the theory that the mortgagee's error in description of the real property in the mortgage meant that the mortgagee did not have a valid security interest, and thus the mortgage did not encumber the debtors' realty, despite the fact that prior to the bankruptcy filing, the mortgagee had discovered the error and brought an action to reform the document and given notice of the needed reformation action in the county's real estate records.

Cajigas v. Candel Coop, (In re Cajigas), 2014 WL 3746794, (1st Circuit B.A.P. July 30, 2014)

Debtors appealed the bankruptcy court's order determining that the debt owed to a creditor was not dischargeable under 11 U.S.C. Section 523 (a)(2)(A), which ruling ensued upon the creditor's unopposed motion for summary judgment. Upon appeal, the Bankruptcy Appellate Panel ("BAP") vacated the order. The BAP held that the debtor's employment verification submitted with a loan application, which misrepresented her income, and tax returns, which did not declare certain earnings, were statements regarding the debtor's financial condition that were expressly excluded from the fraud-based exception. Section 523(a)(2)(A) specifically excepts from discharge debts obtained by "false pretenses, a false representation, or actual fraud, *other than a statement respecting the debtor's or an insider's financial condition.*" Case law within the First Circuit supports the conclusion that a loan application or tax records are statements regarding the debtor's financial condition.

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