



Lathrop Gage Obtains Favorable Ruling from 8th Circuit in ECOA Case

August 8, 2014

KANSAS CITY, Mo. (Aug. 8, 2014) — Lathrop Gage LLP has obtained a favorable ruling in the U.S. Court of Appeals for the 8th Circuit finding that the Equal Credit Opportunity Act ("ECOA") does not apply to guarantors of loans. The August 5 ruling, consistent with recent decisions of the federal district courts in the state of Missouri (but contrary to Regulation B promulgated by the Federal Reserve some 30 years ago), invalidates those cases in the 8th Circuit holding that guarantors are protected under the ECOA and gives credence to arguments made in other circuits to that effect as well.

In *Hawkins v. Community Bank of Raymore*, the plaintiffs sued Lathrop Gage client Community Bank of Raymore ("CBR") claiming CBR violated the ECOA by allegedly requiring their guaranties of several loans made to PHC Development, LLC, an entity they claimed was formed and controlled by their husbands. Per their argument, CBR violated the ECOA by allegedly requiring their guaranties on the loans to PHC Development simply by virtue of the fact that they were the wives of the business' "owners."

CBR argued that the anti-discrimination provisions of the statute were intended only to apply to those who are "applicants" for credit, and that guarantors are not applicants for credit. Instead, guarantors are simply in a position of providing collateral security to CBR on behalf of the actual "applicant" for credit, in this case, PHC. The district court agreed and granted summary judgment in favor of CBR. The 8th Circuit held that its decision comports with the purpose of the ECOA, which is to eliminate discrimination on the basis of, among other things, marital status.

Tom Stahl (Corporate, Banking - Kansas City), Greer Lang (Business Litigation - Kansas City) and Justin Nichols (Banking & Creditors' Rights Litigation- Kansas City) represented CBR in this matter.

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