

## insights

TYPES NOT MAPPED YET June 07, 2019 | TTR not mapped yet | Brian W. Hockett

# SCOTUS rules post-discharge collection actions may result in civil contempt

On June 3, 2019, the U.S. Supreme Court clarified the standard for holding a creditor in contempt for attempts to collect a debt from someone who previously received a bankruptcy discharge. In *Taggart v. Lorenzen, Executor of the Estate of Brown, et al.*, 587 U.S. \_\_\_\_ (2019), the Supreme Court reversed the Court of Appeals for the Ninth Circuit and held that the proper standard to apply to bankruptcy discharge violations was an objective standard. The court determined that a creditor can be held in civil contempt for seeking to collect a pre-bankruptcy claim after the debtor was discharged if there is no fair ground of doubt on whether the discharge order prohibited the creditor's actions.

In this case, after entry of the bankruptcy discharge, certain creditors continued to litigate state court pre-petition claims against the debtor based on a subjective belief that the claims were not discharged. The U.S. Bankruptcy Court for the District of Oregon, following directions from the district court after reversal of its original ruling, applied a strict liability standard and held the creditors in civil contempt because the creditors were aware of the discharge order and intended the actions that violated the discharge order. The Ninth Circuit reversed and adopted a far more creditor-friendly standard, concluding that the creditors could not be held in contempt based on the creditors' good faith belief that the discharge did not apply to the creditors' claim even if that belief was unreasonable.

The Supreme Court in *Taggart* settled the issue by rejecting both of the lower courts' standards. Instead, the Supreme Court held a creditor may be held in contempt for attempts to collect a discharged obligation "if there is *no fair ground of doubt* as to whether the order barred the creditor's conduct" (emphasis in original) or, stated another way, "if there is no objectively reasonable basis for concluding that the creditor's conduct might be lawful."

Despite the Supreme Court's holding permitting some room for objective doubt, the ruling should remind creditors to closely examine a discharge before taking any actions to collect any obligation that might have been discharged in a bankruptcy case.

### authorsTest

brian

Brian W. Hockett